

Also, a bill (H. R. 20239) granting an increase of pension to John Chaney—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20240) granting an increase of pension to Richard E. Lewis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20241) granting an increase of pension to Comfort J. Holston—to the Committee on Invalid Pensions.

By Mr. SHERMAN: A bill (H. R. 20242) for the relief of the surviving members of Company C, Twenty-sixth Regiment New York Volunteer Infantry—to the Committee on Military Affairs.

By Mr. WEISSE: A bill (H. R. 20243) granting an increase of pension to Anton Heinzen—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 20244) granting an increase of pension to Alfred Hayward—to the Committee on Invalid Pensions.

By Mr. ACHESON: A bill (H. R. 20245) to correct the military record of Corwin M. Holt—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of Brotherhood of Locomotive Firemen, of Norfolk, Va., against bill H. R. 5281 (pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

Also, memorial of the legislature of California, for legislation to allow State of California 5 per cent of net proceeds of cash sales of public lands in the State—to the Committee on the Public Lands.

By Mr. ANDREWS: Petition of Out-Door Art League, of San Francisco, for passage of California 5 per cent bill—to the Committee on the Public Lands.

By Mr. BABCOCK: Protest of 125 members of Baraboo Division, No. 176, Brotherhood of Locomotive Engineers, against adoption of conference report on railway rate bill prohibiting passes to railway employees and their families—to the Committee on Interstate and Foreign Commerce.

By Mr. BROUSSARD: Paper to accompany bill for relief of estate of Jean Cheri Verneuil, Orleans Parish, La.—to the Committee on War Claims.

By Mr. CLARK of Florida: Paper to accompany bill for relief of Ellen Downing—to the Committee on Pensions.

Also, petition for bill H. R. 4549 (consolidation of third and fourth class mail matter)—to the Committee on the Post-Office and Post-Roads.

By Mr. ESCH: Petition of F. W. Storandt, Mindoro, Wis., for pure-food bill and Federal inspection of meat packing—to the Committee on Interstate and Foreign Commerce.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of Aaron D. Bright—to the Committee on Claims.

Also, paper to accompany bill for relief of Henry C. Joseph—to the Committee on Invalid Pensions.

By Mr. GOULDEN: Petition of Merchants' Association of New York, for appropriation for lighting Statue of Liberty in New York Harbor—to the Committee on Appropriations.

By Mr. HEDGE: Petition of O. F. Shaffer, Wellman, Iowa; Laughlin & Orn, New London, Iowa; J. R. Hughes, Mount Pleasant, Iowa, and Henry Wallingford, Bonaparte, Iowa, for pure-food bill and Federal inspection of meat packing and slaughtering—to the Committee on Interstate and Foreign Commerce.

By Mr. HINSHAW: Petition of Cummings & Laughlin, Beatrice, Nebr., for a pure-food law and for complete Federal inspection law—to the Committee on Interstate and Foreign Commerce.

Also, petition of John P. Jansen & Son, favoring the Government assuming cost of meat inspection—to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAM W. KITCHIN: Paper to accompany bill for relief of S. H. Williamson—to the Committee on Claims.

By Mr. LACEY: Petitions of Henry A. Der, Malcom; Snodgrass Brothers, Milton; J. C. Nordyke, Richland; J. F. Blankenfeld, Malcom; H. Roher, Grinnell; T. B. O'Brien, John Ballisberger, and J. S. McLain, Fremont; A. C. Brudy, Richland; William F. Jager, Eddyville; C. W. Robert, Hedrick; James T. Risk, Hedrick; R. M. Janes, Borns; and Conrad Hay, all in the State of Iowa, for the pure-food bill and Federal inspection of beef-packers' products—to the Committee on Interstate and Foreign Commerce.

By Mr. MACON: Paper to accompany bill for relief of estate of Q. K. Underwood, Phillips County, Ark.—to the Committee on War Claims.

By Mr. PADGETT: Paper to accompany bill for relief of M. B. Carter, executor of Fountain B. Carter—to the Committee on War Claims.

By Mr. PAYNE: Paper to accompany bill for relief of Joseph N. Cadieux—to the Committee on Invalid Pensions.

By Mr. SMITH of Maryland: Paper to accompany bill for relief of Edwin D. Bates—to the Committee on Invalid Pensions.

By Mr. STERLING: Petition of H. S. Seitz, Normal, Ill., for pure-food law and meat inspection by the Government—to the Committee on Agriculture.

By Mr. THOMAS of North Carolina: Paper to accompany bill for relief of R. S. Petway—to the Committee on War Claims.

By Mr. WANGER: Petition of Brotherhood of Locomotive Firemen, against bill H. R. 5281 (pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

SENATE.

FRIDAY, June 15, 1906.

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

NAMING A PRESIDING OFFICER.

Mr. KEAN called the Senate to order, and the Assistant Secretary read the following letter:

PRESIDENT PRO TEMPORE UNITED STATES SENATE,
June 15, 1906.

To the Senate:

Being temporarily absent from the Senate, I hereby appoint Senator JOHN KEAN to perform the duties of the Chair.

WM. P. FRYE,
President pro tempore.

Mr. KEAN thereupon took the chair as Presiding Officer, and directed that the Journal be read.

THE JOURNAL.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SCOTT, and by unanimous consent, the further reading was dispensed with.

The PRESIDING OFFICER (Mr. KEAN). The Journal will stand approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

H. R. 12707. An act to enable the people of Oklahoma and Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and

H. R. 19432. An act to authorize additional aids to navigation in the Light-House Establishment.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 19571. An act to authorize the county court of Gasconade County, Mo., to construct a bridge across the Gasconade River at or near Fredericksburg, Mo.; and

H. R. 20070. An act to authorize the Chattanooga Northern Railway Company to construct a bridge across the Tennessee River at Chattanooga, Tenn.

The message further announced that the House had agreed to the concurrent resolution of the Senate requesting the President to return to the Senate the bill (S. 1510) granting an increase of pension to Byron K. May.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Presiding Officer:

H. R. 9813. An act granting a pension to Harriet P. Sanders;

H. R. 15331. An act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907;

H. R. 17510. An act to provide for a reconnaissance and preliminary survey of a land route for a mail and pack trail from the navigable waters of the Tanana River to the Seward Peninsula, in Alaska, and for other purposes;

H. R. 17663. An act to extend the provisions of the act of March 3, 1901, to officers of the Navy and Marine Corps advanced at any time under the provisions of sections 1506 and 1605 for eminent and conspicuous conduct in battle;

H. R. 17983. An act providing for the erection of a monument on Kings Mountain battle ground commemorative of the great victory gained there during the war of the American Revolution on October 7, 1780, by the American forces;

H. R. 18330. An act transferring the county of Clinton, in the State of Iowa, from the northern judicial district of Iowa to the southern judicial district of Iowa;

H. R. 19150. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee, in the southern division of the eastern district of Tennessee, at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greenville, and for other purposes; and

H. R. 19642. An act to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations.

PETITIONS AND MEMORIALS.

Mr. KNOX presented memorials of Local Lodge No. 498, Brotherhood of Railroad Trainmen, of Huntingdon; of Local Lodge No. 742, Brotherhood of Railroad Trainmen, of Blairsville; of Local Lodge No. 321, Brotherhood of Railroad Trainmen, of Pittsburg, and of 83 railway employees of Pittsburg, all in the State of Pennsylvania, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented memorials of the Beatty Nickle Oil Company, of Warren; of J. C. McDowell, of Independence; of Jerry Crary, of Warren; of Freeman E. Hertzle, of Warren, and of J. N. Pew, of Pittsburg, all in the State of Pennsylvania, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" in relation to pipe lines; which were ordered to lie on the table.

Mr. DANIEL presented a petition of Local Union No. 47, Journeymen Tailors' Union of America, of Lynchburg, Va., praying for the passage of the so-called "eight-hour bill;" which was referred to the Committee on Education and Labor.

REPORTS OF COMMITTEE ON THE DISTRICT OF COLUMBIA.

Mr. ALLEE, from the Committee on the District of Columbia, to whom was referred the bill (S. 6322) providing for the purchase of a reservation for a public park in the District of Columbia, reported it without amendment, and submitted a report thereon.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 18666) to provide for the reassessment of benefits in the matter of the extension and widening of Sherman avenue, in the District of Columbia, and for other purposes, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 14511) amendatory of an act entitled "An act to provide for payment of damages on account of changes of grade due to the construction of the Union Station, District of Columbia," approved April 22, 1904, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5565) to close certain alleys in the District of Columbia, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, submitted adverse reports thereon; which were agreed to, and the bills were postponed indefinitely:

A bill (S. 60) authorizing the extension of Kalorama road NW.; and

A bill (S. 5882) to provide for the reassessment of benefits in the matter of the extension and widening of Sherman avenue, in the District of Columbia, and for other purposes.

Mr. LONG, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 17452) to provide for payment of damages on account of changes in grade due to the elimination of grade crossings on the line of the Philadelphia, Baltimore and Washington Railroad Company, reported it without amendment, and submitted a report thereon.

DISPOSITION OF USELESS PAPERS.

Mr. PETTUS, from the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, submitted the following report; which was read, and ordered to lie on the table:

The Joint Select Committee of the Senate and House of Representatives, appointed on the part of the Senate and on the part of the House

of Representatives, to which were referred the reports of the heads of Departments, bureaus, etc., in respect to the accumulation therein of old and useless files of papers which are not needed or useful in the transaction of the current business therein, respectively, and have no permanent value or historical interest, with accompanying statements of the condition and character of such papers, respectfully report to the Senate and House of Representatives, pursuant to an act entitled "An act to authorize and provide for the disposition of useless papers in the Executive Departments," approved February 16, 1889, as follows:

Your committee have met, and, by a subcommittee appointed by your committee, carefully and fully examined the said reports so referred to your committee and the statements of the condition and the character of such files and papers therein described, and we find and report that the files and papers described in the report of the Secretary of the Treasury in House Document No. 689, Fifty-ninth Congress, first session, dated April 9, 1906, and in the report of the Secretary of Commerce and Labor in House Document No. 608, Fifty-ninth Congress, first session, dated March 8, 1906, and in the report of the Secretary of the Interior in House Document No. 916, Fifty-ninth Congress, first session, dated May 18, 1906, are not needed in the transaction of the current business of such Departments and bureaus, and have no permanent value or historical interest, and should be sold for waste paper, or otherwise disposed of, upon the best obtainable terms, as provided by law.

Respectfully submitted to the Senate and House of Representatives.

E. W. PETTUS,

J. H. GALLINGER,

Members on the part of the Senate.

ARTHUR L. BATES,

J. M. RICHARDSON,

Members on the part of the House.

EXTENSION OF PUBLIC LAND LAWS.

Mr. SMOOT. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 12323) to extend the public land laws of the United States to the lands comprised within the limits of the abandoned Fort Crittenden Military Reservation, in the State of Utah, to report it favorably, without amendment, and I ask for its immediate consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. HANSBROUGH. A bill of like import has passed the Senate, and I desire to offer it as an amendment to the pending bill.

The PRESIDING OFFICER. The Senator from North Dakota offers an amendment, which will be read.

The SECRETARY. Add as an additional section to the bill the following:

SEC. 2. That all persons now having or who may hereafter file homestead applications upon any of the lands situate within the abandoned Fort Rice Military Reservation, in the State of North Dakota, shall be entitled to a patent to the land filed upon by such person upon compliance with the provisions of the homestead law of the United States and proper proof thereof, and shall not be required to pay the appraised value of such lands in addition to such compliance with the said homestead law.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to extend the public land laws of the United States to the lands comprised within the limits of the abandoned Fort Crittenden Military Reservation, in the State of Utah, and for other purposes."

EVERGLADES OF FLORIDA.

Mr. FRAZIER. I am directed by the Committee on Agriculture and Forestry, to whom was referred the joint resolution (S. R. 65) directing the Secretary of Agriculture to cause a survey of the Everglades of Florida to determine the feasibility and cost of draining said Everglades, and for other purposes, to report it favorably with an amendment.

Mr. MALLORY. I ask unanimous consent for the present consideration of the joint resolution.

The PRESIDING OFFICER. The joint resolution will be read.

Mr. GALLINGER. Let it be read for information.

The Secretary read the joint resolution, as follows:

Resolved, etc., That the Secretary of Agriculture be, and he is hereby, authorized and directed to cause a survey of the Everglades of Florida to be made, with a view to ascertaining and determining the feasibility and probable cost of reclaiming and draining said Everglades for agricultural purposes, and also to cause an examination of the soil in said Everglades with a view to determining its quality and adaptability and probable productiveness when reclaimed and devoted to agricultural purposes.

SEC. 2. That the sum of \$10,000 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying out the requirements of this resolution, and that said sum of \$10,000, or so much thereof as may be necessary, be reserved from the sales of public lands in the State of Florida and paid into the Treasury of the United States in lieu of any portion of the \$10,000 hereby appropriated for the purposes designated by this resolution.

SEC. 3. That the Secretary of Agriculture report to Congress at as early a day as possible the result of said surveys, with such recommendations as he may think proper to make.

Mr. GALLINGER. Mr. President, I want to ask the Senator from Florida a question concerning this matter. How extensive in area are the so-called "Everglades" of Florida?

Mr. MALLORY. They have never been surveyed. My estimate is that there are about 2,000,000 acres.

Mr. GALLINGER. How much does the Senator think it would cost the Government to drain those 2,000,000 acres?

Mr. MALLORY. This measure does not propose that the Government shall drain it, but simply to ascertain whether it is feasible for drainage. The Everglades are subject to overflow from Lake Okeechobee. Lake Okeechobee is a large lake, some 40 miles long and 40 miles wide. It overflows annually and floods the Everglades and makes them uninhabitable. Whether the lands are drainable or can be reclaimed is a mooted question, and it has not been settled. The authorities of the State of Florida have been considering it for some time, and they are contemplating making an effort to drain them; but there really has been no survey made and nothing to determine that the project is feasible.

Mr. GALLINGER. I will ask the Senator if it is not safe to assume that if the Government determines that this is a feasible scheme, an appropriation will be asked for that purpose?

Mr. MALLORY. I do not think so, for this reason: I think that ultimately the lands will go to the State of Florida. I think they would go to the State of Florida now if they had been surveyed, but they have not been surveyed, and of course can not go, under the circumstances.

Mr. GALLINGER. I have asked these questions for the reason that there is not a State in the Union, great or small, that has not swamp lands which it would be desirable to drain and make good agricultural lands if it could be brought about in that way.

I notice a disposition to divert a portion of the irrigation fund to purposes of drainage. In other words, we passed a law to procure water for agricultural purposes, and now we are asked to divert a part of that fund for the purpose of getting rid of water.

Mr. MALLORY. Unfortunately we in Florida are situated exactly in the opposite position from what they are in the West.

Mr. GALLINGER. Yes; I know that.

Mr. MALLORY. But the principle is the same. We only propose to use money received from the sale of public lands in the State of Florida for this purpose, not for the purpose of draining the land, but to ascertain whether it is drainable. If the question should come up hereafter, and the Government is asked to pay, the Senator would possibly object to it.

Mr. HANSBROUGH. Mr. President—

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from North Dakota?

Mr. GALLINGER. I yield to the Senator.

Mr. HANSBROUGH. I presume the Senator from New Hampshire refers to the bill which passed the Senate recently providing for the setting aside of \$1,000,000 of moneys arising from the sale of public lands in the State of North Dakota to be used for the purpose of drainage. I will ask the Senator if he can find any constitutional distinction between the irrigation law, which provides for putting water on land, and any drainage bill which provides for taking water off of land?

Mr. GALLINGER. Mr. President, I am not going to enter into a constitutional argument on this question. I merely want to say that if we are to stand by the irrigation project, which every eastern Senator voted for and which I believe to be a good thing, and if we are now to go into the matter of draining all the swamp lands of the West and the South, of course, Senators representing the northern country will ask that their swamps shall be drained. It is to my mind a very serious matter that we are entering upon a scheme of legislation which will become exceedingly troublesome in the future.

I am not going to object to the consideration of the joint resolution, but I wanted this information before it was voted on, because I want to give notice that if this is to be policy, we have not any lands in the North which need irrigation that I am aware of, but we have a great many thousands of acres of land that need drainage, and we are going to get into that game, if it is to be the policy of the Government.

Mr. TILLMAN. Mr. President—

Mr. BACON. Are there any Government lands in the Senator's State?

Mr. GALLINGER. No, sir.

Mr. BACON. These are Government lands.

Mr. GALLINGER. I will ask the Senator whether the Everglades of Florida are Government lands? I think they are not.

Mr. MALLORY. As I have stated, they will ultimately go to the State, but they have never been surveyed.

Mr. GALLINGER. But they are not now Government lands. So the suggestion of the Senator from Georgia does not apply to the Everglades of Florida.

Mr. BACON. I understand the Senator to say that ultimately they will go to the State, but that they are now the property of the Government.

Mr. GALLINGER. Ultimately we would like to sell our swamps to the Government.

Mr. BACON. The title is now in the United States Government.

Mr. TILLMAN. Mr. President, I wish to suggest to the Senator from New Hampshire that there are a good many swamps up and down the Atlantic coast, some in New England, some in Louisiana, Mississippi, and elsewhere—South Carolina has some—and when those of us who have swamps see the beneficence of this Government expended in putting water by irrigation on arid lands and in draining, as the Senator from North Dakota obtained the passage of a bill through the Senate—I do not know what was done with it in the House—to take water off of land in his State, I agree with the Senator from New Hampshire that if this kind of cake is to be served out I will want my piece of it.

Mr. GALLINGER. That is right.

Mr. HANSBROUGH. Mr. President, I crave the indulgence of the Senate for a few moments, that I may explain the bill which passed this body some two months ago. I do not propose to interfere with the Senator's joint resolution, and I will not object to its consideration, of course.

The situation in North Dakota is this: That State has put into the reclamation fund up to date about \$5,000,000. It will be impossible for us to expend there for irrigation more than \$500,000. In the eastern part of my State, in the great Red River Valley, there are a million acres of land to-day under water, the result of excessive rainfall. That has been the condition in that section for the last seven or eight years.

So, Mr. President, it occurred to me at the opening of the present session that it would be a good idea if North Dakota might be allowed to use a portion of the money arising from the sale of public lands within that State to drain the water off of land in the Red River Valley, and that was the nature of the bill which was passed by the Senate and is now in the House of Representatives.

Mr. STONE. Mr. President—

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Missouri?

Mr. HANSBROUGH. Certainly.

Mr. STONE. I desire to ask the Senator from North Dakota if the lands that would be drained under the bill he introduced, which has passed the Senate, and which I understand has been favorably reported from the House committee to that body, would be private lands—lands belonging to individuals—or would public lands only be drained?

Mr. HANSBROUGH. Both private and public, but the larger portion of the lands are in private ownership. I will say to the Senator from Missouri that there is not an irrigation project to-day contemplated by the Reclamation Service that is not largely composed of private lands. So there can be no distinction, it seems to me, in that respect.

Mr. STONE. I should like to say, if the Senator will permit me—

Mr. HANSBROUGH. Certainly.

Mr. STONE. I voted for the bill and approved of it, and I do yet. I think there is no more reason why money should be expended to reclaim lands by putting water on them, than it should be expended to reclaim them by taking water off. I agree to that. We have in my State the St. Francis River, which runs through the southeastern part of Missouri and the northeastern part of Arkansas and empties into the Mississippi River. Along the St. Francis River in the State of Missouri alone there are 6,000 square miles of as fertile land as can be found on earth, largely covered by water. A movement is now on foot among the people in that part of Missouri and in that part of Arkansas to secure Congressional action looking to the reclamation of those lands.

Mr. TILLMAN. Are those the lands that were submerged by the New Madrid earthquake?

Mr. STONE. Yes, sir.

Mr. TILLMAN. I thought so.

Mr. HANSBROUGH. I want to say on this general question of drainage, that so far as I am concerned I would be very glad to favor any proposition which would relieve the situation in any of the States of the Union, whether it be in New Hampshire, or Missouri, or Arkansas, or South Carolina, or elsewhere, with respect to drainage, and I believe it is proper for this Government to favor an enterprise of that kind.

Mr. TILLMAN. Mr. President, I understand the Senator—

Mr. BURROWS. Mr. President—

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Michigan?

Mr. HANSBROUGH. Certainly.

Mr. BURROWS. Mr. President, it is apparent that this matter is of such moment as to consume much time in debate if it is considered now. This is entering upon a new field of legislation, it seems to me, and if this policy is to be entered upon, we have a large quantity of land in my State that we will want to have drained by the Government of the United States.

Mr. HANSBROUGH. I would favor including Michigan in the list of States to be benefited by it.

Mr. BURROWS. Mr. President, I object to the present consideration of the joint resolution.

The PRESIDING OFFICER. Objection is made, and the joint resolution goes to the Calendar.

Mr. HALE. Let it go to the Calendar under Rule IX.

Mr. BERRY. I hope it will go over without prejudice to it, if the Senator from Maine objects to its consideration.

Mr. HANSBROUGH. I should be glad to have the joint resolution go over without prejudice. I certainly did not intend—

Mr. BERRY. If the Senator from Maine will permit me, this is not a proposition to drain land, but it is simply a proposition to survey land that has never been surveyed by the Government.

Mr. HALE. I am not debating the merits of the joint resolution. The Senator from Michigan has objected to its consideration.

Mr. BERRY. I hope it will not be put in a position where it can not be called up.

Mr. HALE. I do not propose that it shall be called up in the absence of Senators who take an interest in it.

Mr. BERRY. I do not suppose the Senator means that anybody will try to take that advantage.

Mr. HALE. Mr. President, what will be the result of the objection?

The PRESIDING OFFICER. The joint resolution goes to the Calendar.

Mr. HANSBROUGH. I hope it will go to the Calendar without prejudice, and that the Senator from Maine will withdraw his request.

The PRESIDING OFFICER. The Chair does not think it could go elsewhere than to the regular Calendar, because it was reported this morning.

BILLS INTRODUCED.

Mr. BURROWS introduced a bill (S. 6463) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Frank Holway Atkinson; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. TELLER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6464) granting an increase of pension to Simon Collier;

A bill (S. 6465) granting an increase of pension to Jason Shaeffer; and

A bill (S. 6466) granting an increase of pension to Samuel Moser (with an accompanying paper).

Mr. McCUMBER introduced a bill (S. 6467) granting an increase of pension to John M. Smith; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SUTHERLAND (for Mr. NIXON) introduced a bill (S. 6468) ceding certain lands appertaining to the post-office building at Reno, Nev., for use as a street; which was read twice by its title, and referred to the Committee on Public Lands and Grounds.

Mr. WARNER introduced a bill (S. 6469) granting an increase of pension to John W. Hudson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GALLINGER introduced a bill (S. 6470) in relation to the Washington Market Company; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. ALDRICH introduced a bill (S. 6471) granting an increase of pension to Ella E. Kenney; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6472) granting an increase of pension to John McDonough; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McCREARY introduced a bill (S. 6473) for the relief of Elizabeth Bevins; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 6474) for the relief of Henry H.

Baxter; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 6475) granting an increase of pension to Harvey Key; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GALLINGER submitted an amendment providing for the publication of the names of heads of families of the First Census of the United States, intended to be proposed by him to the sundry civil appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. MILLARD submitted an amendment providing that the provisions of the act of August 1, 1892, and of February 27, 1906, relative to the hours of daily service of laborers and mechanics employed upon the public works of the United States and the District of Columbia, shall not apply to unskilled alien laborers employed in the construction of the isthmian canal within the Canal Zone, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment proposing to pay to George R. Butlin, J. B. Haynes, and Ernest H. Djureen \$500 each, for services rendered by them in the preparation of an analytical index to testimony taken before the Senate Committee on Interoceanic Canals, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Interoceanic Canals, and ordered to be printed.

COMMITTEE ON EXAMINATION AND DISPOSITION OF DOCUMENTS.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there shall be added to the Select Committees of the Senate the Committee on Examination and Disposition of Documents.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the following constitute the Select Committee of the Senate on Examination and Disposition of Documents: Mr. BENSON (chairman), Messrs. KEAN, HOPKINS, GEARIN, and WHITE.

Mr. HALE submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Select Committee on Examination and Disposition of Documents be authorized to employ a messenger at \$1,440 per annum, the same to be paid out of the contingent fund of the Senate.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Appropriations be authorized and instructed to provide for a clerk of the Select Committee on Examination and Disposition of Documents, at an annual salary of \$1,800.

ASSISTANT CLERK TO COMMITTEE ON MILITARY AFFAIRS.

Mr. WARREN submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the salary of the assistant clerk to the Committee on Military Affairs, authorized by resolution of June 5, 1902, at \$1,440 per annum be, and it is hereby, increased to \$1,800 per annum, to be paid from the contingent fund of the Senate until otherwise provided by law.

WITHDRAWAL OF PAPERS—WILLIAM C. PATTEN.

On motion of Mr. CLARKE of Arkansas, it was

Ordered, That on the application of William C. Patten, he is authorized to withdraw from the files of the Senate all papers accompanying Senate bill No. 5907, Fifty-seventh Congress, first session, entitled "A bill to correct the military record of William C. Patten," there having been no adverse report thereon.

BLACKFEET INDIAN RESERVATION, IN MONTANA.

Mr. CLARK of Montana submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19681) to survey and allot the lands embraced within the limits of the Blackfeet Indian Reservation, in the State of Montana, and to open the surplus lands to settlement, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

Strike out all of the Senate amendment and insert in lieu thereof the following:

"That the Secretary of the Interior is hereby authorized and directed to immediately cause to be surveyed all of the lands embraced within the limits of the Blackfeet Indian Reservation, in the State of Montana.

"Sec. 2. That so soon as all the lands embraced within the Blackfeet Indian Reservation shall have been surveyed the Commissioner of Indian Affairs shall cause allotments of the same to be made under the provisions of the allotment laws of the United States to all persons having tribal rights or holding tribal relations and may rightfully belong on said reservation. That there shall be allotted to each member forty acres of irrigable land and two hundred and forty acres of additional land valuable only for grazing purposes, or, at the option of the allottee, the entire two hundred and eighty acres may be taken in land valuable only for grazing purposes, and for the irrigable lands allotted there is hereby reserved out of the waters of the reservation sufficient to irrigate said irrigable lands, and the United States shall and does hold said reserved water in trust as appurtenant to the lands so allotted for the trust period named in the patent to be issued: *Provided*, That such reservation and trust shall only apply to such waters as may be actually and necessarily appropriated for the irrigable portions of Indian allotments within two years from the date of the issuance of the proclamation by the President opening the unallotted lands to settlement; and pending such actual appropriation of water by and for any Indian allottee, all of said waters shall be subject to use under the laws of Montana, but such use shall not be held to create a right adverse to any Indian allottee who actually appropriates water or for whom an actual appropriation of water is made to the extent that may be necessary for use on the allotment within the time limit aforesaid, but, on the contrary, each Indian allottee shall have and enjoy the prior right to appropriate water actually necessary for the irrigation of his or her allotment at any time within two years after the issue of the President's proclamation aforesaid: *And provided further*, That, subject to the foregoing provisions, all water rights and privileges on or connected with streams within or adjoining said reservation shall be subject to the laws of the State of Montana: *Provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved so long as needed and so long as agency, school, or religious institutions are maintained thereon for the benefit of the Indians, not exceeding two hundred and eighty acres to any one religious society; also such tract or tracts of timber lands as he may deem expedient for the use and benefit of the Indians of said reservation in common; but such reserved lands, or any part thereof, may be disposed of from time to time in such manner as the said Secretary may determine: *Provided*, That there is hereby granted two hundred and eighty acres each to the Holy Family mission, on Two Medicine Creek, and the mission of the Methodist Episcopal Church, near Browning, to be selected by the authorities of said missions, respectively, embracing the mission buildings and improvements thereon.

"Sec. 3. That upon the completion of said allotments the President of the United States shall appoint a commission consisting of three persons to inspect, appraise, and value all of the said lands that shall not have been allotted in severalty to said Indians or reserved by the Secretary of the Interior or otherwise disposed of; said commission to be constituted as follows: One commissioner shall be a person holding tribal relations with said Indians, one a resident citizen of the State of Montana, and one a United States special Indian agent or Indian inspector of the Interior Department.

"That within thirty days after their appointment said commissioners shall meet at some point within the Blackfeet Indian Reservation and organize by the election of one of their number as chairman. Said commission is hereby empowered to select a clerk at a salary of not to exceed five dollars per day.

"That said commissioners shall then proceed to personally inspect and classify and appraise, by the smallest legal subdivisions of forty acres each, all of the remaining lands embraced within said reservation. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, not to be appraised.

"That said commissioners shall be paid a salary of not to exceed ten dollars per day each while actually employed in the inspection and classification of said lands; such inspection and classification to be completed within nine months from the date of the organization of said commission.

"Sec. 4. That when said commission shall have completed the classification and appraisement of all of said lands and the same shall have been approved by the Secretary of the Interior, the land shall be disposed of under the general provisions of the homestead, mineral, and town-site laws of the United States,

except such of said lands as shall have been classified as timber lands, and except such sections sixteen and thirty-six of each township, or any part thereof, for which the State of Montana has not heretofore received indemnity lands under existing laws, which sections, or parts thereof, are hereby granted to the State of Montana for school purposes. And in case either of said sections or parts thereof is lost to the State of Montana by reason of allotment thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to select other lands not occupied or reserved within said reservation, not exceeding two sections in any one township, which selections shall be made prior to the opening of the lands to settlement: *Provided*, That the United States shall pay to the said Indians for the lands in said sections sixteen and thirty-six, so granted, or the lands within said reservation selected in lieu thereof, the sum of one dollar and twenty-five cents per acre.

"Sec. 5. That the lands so classified and appraised shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars and the Philippine insurrection, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged, but no entry shall be allowed under section twenty-three hundred and six of the Revised Statutes: *Provided further*, That the price of said lands shall be the appraised value thereof, as fixed by said commission, which in no case shall be less than one dollar and twenty-five cents per acre for agricultural and grazing lands and five dollars per acre for timber lands; but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-fifth of the appraised value in cash at the time of entry and the remainder in five equal annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to a patent for the lands entered: *Provided*, That he shall make his final proofs in accordance with the homestead laws within seven years from date of entry, and that aliens who have declared their intention to become citizens of the United States may become such countrymen, but before making final proof and receiving patent they must receive their full naturalization papers: *And provided further*, That the fees and commissions at the time of commutation or final entry shall be the same as are now provided by law where the price of land is one dollar and twenty-five cents per acre: *Provided*, That if any entryman fails to make such payments, or any of them, within the time stated, or to make final proof within seven years from date of entry, all rights in and to the land covered by his entry shall at once cease, and any payments theretofore made shall be forfeited and the entry shall be forfeited and canceled: *Provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made.

"Sec. 6. That if, after the approval of the classification and appraisement, as provided herein, there shall be found lands within the limits of the reservation under irrigation projects deemed practicable under the provisions of the act of Congress approved June seventeenth, nineteen hundred and two, known as the "reclamation act," said lands shall be subject to withdrawal and be disposed of under the provisions of said act, and settlers shall pay, in addition to the cost of construction and maintenance provided therein, the appraised value, as provided in this act, to the proper officers, to be covered into the Treasury of the United States for the credit of the Indians: *Provided*, That all lands hereby opened to settlement remaining undisposed of at the end of five years from the taking effect of this act shall be sold to the highest bidder for cash, at not less than one dollar and twenty-five cents per acre, under rules and regulations prescribed by the Secretary of the Interior; and any lands remaining unsold ten years after said lands shall have been opened to entry shall be sold to the highest bidder, for cash, without re-

gard to the minimum limit above stated: *Provided*, That not more than six hundred and forty acres of land shall be sold to any one person or company.

"Sec. 7. That the lands within said reservation not already previously entered, whether classified as agricultural, grazing, timber, or mineral lands, shall be subject to exploration, location, and purchase under the general provisions of the United States mineral and coal land laws, at the prices therein fixed, except that no mineral or coal exploration, location, or purchase shall be permitted upon any lands allotted to an Indian.

"Sec. 8. That lands classified and returned by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior, under sealed bids to the highest bidder for cash at not less than five dollars per acre, under such rules and regulations as he may prescribe: *Provided*, That the said timber lands shall be sold in tracts not exceeding forty acres, with preference right of purchase to actual settlers, including Indian allottees residing in the vicinity, at the highest price bid.

"Sec. 9. That after deducting the expenses of the commission of classification, appraisement, and sale of lands, and such other incidental expenses as shall have been necessarily incurred, including the cost of survey of said lands, the balance realized from the proceeds of the sale of the lands in conformity with this act shall be paid into the Treasury of the United States and placed to the credit of said Indian tribe. Not exceeding one-third of the total amount thus deposited in the Treasury, together with one-third of the amount of the principal of all other funds now placed to the credit of or which is due said tribe of Indians from all sources, shall be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of said Indians, in the construction and maintenance of irrigation ditches, the purchase of stock cattle, horses, and farming implements, and in their education and civilization. The remainder of all funds deposited in the Treasury realized from such sale of lands herein authorized, together with the remainder of all other funds now placed to the credit of or that shall hereafter become due to said tribe of Indians, shall, upon the date of the approval by the Secretary of the Interior of the allotments of land authorized by this act, be allotted in severalty to the members of the tribe, the persons entitled to share as members in such distribution to be determined by said Secretary. The funds thus allotted and apportioned shall be placed to the credit of such individuals upon the books of the United States Treasury for the benefit of such allottees, their legatees, or heirs. The President may, by Executive order, from time to time order the distribution and payment of such funds or the interest accruing therefrom to such individual members of the tribe as in his judgment would be for the best interests of such individuals to have such distribution made, under such rules and regulations as he may prescribe therefor: *Provided*, That so long as the United States shall hold the funds as trustee for any member of the tribe, the Indian beneficiary shall be paid interest thereon annually at the rate of four per centum per annum.

"Sec. 10. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of sixty-five thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of Montana and for lands reserved for agency and school purposes, at the rate of one dollar and twenty-five cents per acre; also, the sum of seventy-five thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to survey, classify, and appraise the lands of said reservation as provided herein, and also to defray the expense of the appraisement and survey of said town sites, the latter sums to be reimbursable out of the funds arising from the sale of said lands.

"Sec. 11. That nothing in this act contained shall in any manner bind the United States to purchase any part of the land herein described, except sections sixteen and thirty-six, or the equivalent in each township that may be granted to the State of Montana, the reserved tracts hereinbefore mentioned for agency and school purposes, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any part thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received.

"Sec. 12. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for town-site purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks, not less than eighty acres of said land at or near the present settlements of Browning and Babb, and each of such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will

best subserve the present needs and the reasonable prospective growth of said settlements. Such town sites shall be surveyed, appraised, and disposed of as provided in section twenty-three hundred and eighty-one of the United States Revised Statutes: *Provided*, That any person who at the date when the appraisers commence their work upon the land, shall be an actual resident upon any one such lot and the owner of substantial and permanent improvements thereon, and who shall maintain his or her residence and improvements on such lot to the date of his or her application to enter, shall be entitled to enter at any time prior to the day fixed for the public sale, and at the appraised value thereof, such lot and any one additional lot of which he or she may also be in possession and upon which he or she may have substantial and permanent improvements: *Provided further*, That before making entry of any such lot or lots, the applicant shall make proof to the satisfaction of the register and receiver of the land district in which the land lies of such residence, possession, and ownership of improvements, under such regulations as to time, notice, manner, and character of proof as may be prescribed by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior: *Provided further*, That in making their appraisal of the lots so surveyed it shall be the duty of the appraisers to ascertain the names of the residents upon and occupants of any such lots, the character and extent of the improvements thereon, and the name of the reputed owner thereof, and to report their findings in connection with their report of appraisal, which report of findings shall be taken as prima facie evidence of the facts therein set out. All such lots not so entered prior to the day fixed for the public sale shall be offered at public outcry in their regular order with the other unimproved and unoccupied lots: *Provided, however*, That no lot shall be sold for less than ten dollars: *And provided further*, That said lots when surveyed shall approximate fifty by one hundred and fifty feet in size."

W. A. CLARK,
FRED T. DUBOIS,
MOSES E. CLAPP,

Managers on the part of the Senate.

J. S. SHERMAN,
CHAS. CURTIS,
WM. T. ZENOR,

Managers on the part of the House.

The report was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

H. R. 19571. An act to authorize the county court of Gasconade County, Mo., to construct a bridge across the Gasconade River at or near Fredericksburg, Mo.; and

H. R. 20070. An act to authorize the Chattanooga Northern Railway Company to construct a bridge across the Tennessee River at Chattanooga, Tenn.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts:

On June 11:

S. 4299. An act to amend section 4421 of the Revised Statutes of the United States, inspection of steam vessels;

S. 6329. An act authorizing James A. Moore or his assigns to construct a canal along the Government right of way connecting the waters of Puget Sound with Lake Washington; and

S. 2623. An act for the extension of Euclid street, in Meridian Hill, District of Columbia.

On June 14:

S. 2418. An act to enable the Indians allotted lands in severalty within the boundaries of drainage district No. 1, in Richardson County, Nebr., to protect their lands from overflow, and for the segregation of such of said Indians from their tribal relations as may be expedient, and for other purposes.

STATISTICS RELATIVE TO THE SUEZ CANAL.

Mr. MORGAN. Mr. President, I ask an order for the printing of a letter which I hold in my hand on a very important subject that is now before the Senate.

In our duties that we are performing now daily under the regular order that has been on the Calendar before the Senate, the Senate and the country are having a great deal of anxiety about the amount of money that is to be expended in the construction of the Panama Canal, no matter whether it is a sea-level or whether it is a lock canal, and they seem to have lost sight of the question which lies still further off, as to whether

this is going to be a remunerative enterprise in either form or type of canal that may be constructed.

I took occasion to write to Gen. George W. Davis, who is the best informed man whom I know of, in regard to the situation of the Suez Canal, as to its capitalization, as to its reserve funds, as to the dividends upon the stock, and the amount of tonnage which passes through that canal. He very kindly replied to my inquiries, and I will read the letter to the Senate in order that they may have some idea of its importance:

[Senate Document No. 492, Fifty-ninth Congress, first session.]

Letter from Mr. George W. Davis, giving certain data relating to the Suez Canal.

WASHINGTON, D. C., June 14, 1906.

MY DEAR SENATOR: Replying to your favor of yesterday, I give you the following data respecting the Suez Canal:

The original capital of the company, issued before 1870, was 400,000 shares, at 500 francs each; but these securities do not answer to our definition either of stocks or bonds, as they partake of the character of both. Under the terms of issue there was a condition that the shares could be redeemed in certain proportions at stated periods and that when redeemed they should be no longer an interest-bearing security, but should continue to constitute an asset to the original owner of the shares to the extent that he should participate in all surplus benefits earned by the company; but the interest provided by the statute—5 per cent—stopped when the bond should be called for redemption.

On the 31st of December, 1904, there were 385,460 of these shares still outstanding, and they continued to enjoy participation in the surplus benefits or profits of the company. But the interest on the residue of these bonds had ceased; that is to say, on 14,600 shares. The other outstanding securities of the Suez Canal Company are bond issues, as follows: First, an issue of 400,000 shares, at 85 francs, put out in order to take up unpaid coupons on the original issue, this being really to make good a deficit arising in the earlier years of the operation of the company, when its revenues were small. These bonds were entitled to 5 per cent interest, and the value of those still unredeemed and outstanding is 32,919,310 francs. Of the loan of 1867-68, which was in 300-franc shares, there was still outstanding on the date above specified 53,160,600 francs. In 1871 a still further issue of 100-franc shares was made, of which are yet unpaid 1,678,000 francs. A further loan was made in 1880 at 3 per cent, of which 24,575,770 francs remained unpaid at the end of 1904.

In 1887 there was still a further loan negotiated at 3 per cent, the aggregate of which still remaining unredeemed is 97,362,450 francs. The aggregate of all these issues, stock and bonds, came to the total of 402,296,130 francs, or \$80,500,000. This is all of the capital stock of the Suez Canal Company, except that there remains an obligation resting on the company to pay 10 per cent of their surplus profits to the original founders, constituting all those who formed the original company that Mr. De Lesseps exploited. These founders' interests are divided into 100,000, and each now receives about one-half as much annually as the owners of each original share received.

The only reserve of which I can get any trace, maintained by the Suez Canal Company, is one of \$5,000,000, which is required by the statute to be maintained, so as to equalize profits and losses and to provide for emergencies. There is another fund of small amount maintained as a pension and retirement fund, disbursed for the benefit of employees of long standing and of recognized merit. But the aggregate of this fund is not a large one.

The last quotation for Suez Canal stock that I have seen is for May, 1906, when it was quoted at the Bourse as 4.515 francs. As the par value of the share is 500 francs, you can readily see that these securities are at 900 per cent premium.

The dividend paid last year on the original shares was a net of 141 francs per share. This included the 25 francs (5 per cent interest) referred to above as having ceased on certain of the shares of the original stock that had been called in and redeemed. The per cent of dividend was therefore about 28. The tonnage passing the Suez Canal last year was 13,000,000 net tons, and the toll rate was 7½ francs per ton.

Under the terms of the concession, which extended for ninety-nine years from the date of completion of the canal—1869—all the securities will have been retired and canceled on maturity, and amortization provisions are arranged to that end.

The Government of England paid almost exactly £4,000,000 for the shares bought by Beaconsfield from the Khedive. The dividend on these shares last year for the benefit of the British Government was £933,000.

The authorities, for the information contained in the above, are: L'Economiste, a French publication with which you are no doubt familiar; the Statist, an English publication devoted to statistical matters; also a recently published work on the Suez Canal, by J. Charles-Roux, entitled "L'Isthme et le Canal de Suez," Paris, 1901, and The Stock Exchange Official Intelligence for 1905.

Hoping the above will meet your necessity, I remain, as ever,

Yours, sincerely,

GEO. W. DAVIS.

HON. JOHN T. MORGAN,
Capitol, Washington, D. C.

Now, Mr. President, I desire to have this letter printed as a document for the use of the Senate. It certainly is something that is of the very greatest importance.

I wish to say in connection with it that I hope we will get rid of any hysterical idea in discussing the great proposition that is before us to the effect that we are wasting money upon it. We may be spending money very imprudently, and I think for the want of a proper system and management we are doing just that thing; and it is going to require very careful work on the part of the Senate of the United States and the Congress of the United States to devise and put in force a system of expenditures and accounting there that will prove to be justly and properly economical in the handling of this great fund.

But, Mr. President, what we are putting into this canal is in an investment. I will suppose that it is \$500,000,000; it is still an investment. It is not money thrown away. It is not money loaned out and lost. It is not money expended in war or money given to benevolent purposes and the like of that, but it is money invested.

Now, as to what is the likelihood of profit upon the investment can be best ascertained by a reference to these figures of the Suez Canal. Nine hundred per cent—

Mr. CULLOM. I wish to ask the Senator if there is stated in the letter the exact cost of the Suez Canal, the whole cost?

Mr. MORGAN. Yes; the whole amount expended. I do not know whether it is for the canal proper, as it first was, or whether it is for the canal with the betterments that have been made to it since. General Davis has not divided that; but if it is necessary, I can get that information from him, I have no doubt.

What I wish to say is this, Mr. President: When the stock of the Suez Canal, with 13,000,000 tonnage passing through it annually, not a sailing ship going through it, all steamers, is worth a premium of 900 per cent on the Bourse in Paris, there need not be any despair or any excitement or any apprehension among Members of Congress or the people in regard to the outcome of this work when it shall be completed. We have the ability to take hold of this work, and by taxing our people to pay bond issues to complete it without ever stopping a wheel in the whole work for a second. If it should last for twenty-five years we have got the ability to do it. But that is not what I am acting upon. I am acting upon the idea that if this canal gets only 13,000,000 tons of transportation on which tolls are to be charged we could run the stock of the canal up if it were a commercial enterprise, a stock enterprise, to 400 or 500 per cent in four or five years after the canal is completed, if it takes twenty years to complete it.

I wish to say that I regard this as the very best investment that any Government has ever had an opportunity to make of its money in any work of permanent improvement. I say that, Mr. President, notwithstanding I have always said—and it is unnecessary that I should repeat it—that I have very great misgivings as to whether or not after all we shall be able to overcome the natural difficulties that confront us in the building and maintenance of this canal; but we have got to take the risk, and we are ready to take it. I have not any doubt about the determination of almost every man in the United States to take the risk, whatever it may be. I have no right to make predictions about it, but I can not resist, in justice to my own opinion, reserving to myself the apprehension that after all we are putting our money down at the wrong place. That is my judgment, and I have thought so from the beginning.

That is what I wish to say in regard to this very important statement of General Davis. I will now ask that it shall be printed as a document for the use of the Senate.

The PRESIDING OFFICER. The Senator from Alabama asks for the printing of the document to which he has referred, for the use of the Senate. In the absence of objection, it will be so ordered.

Mr. SCOTT. Mr. President—

The PRESIDING OFFICER. Are there further concurrent or other resolutions? If not, the morning business is closed.

FIRE DEPARTMENT OF THE DISTRICT OF COLUMBIA.

Mr. SCOTT. I ask unanimous consent for the present consideration of House bill 4464, being what is known as the "firemen's bill," which was considered yesterday. It will only take a moment to complete its consideration. The Senator from Maine [Mr. HALE], who yesterday objected to the bill, has since investigated the matter, and I believe is now satisfied that the bill shall pass.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 4464) to classify the officers and members of the fire department of the District of Columbia, and for other purposes.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PANAMA CANAL.

Mr. KITTREDGE. I ask unanimous consent that the unfinished business may now be laid before the Senate.

The PRESIDING OFFICER. Is there objection to the request?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6191) to provide for the construction of a sea-level canal connecting the waters of the Atlantic and Pacific oceans, and the method of construction.

Mr. TELLER obtained the floor.

Mr. McLAURIN. Will the Senator from Colorado yield to me for a moment?

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Mississippi?

Mr. TELLER. I should like to know for what purpose. Then I can decide.

Mr. McLAURIN. I desire to ask the Senator if he will yield to allow me to ask unanimous consent of the Senate for the present consideration of Senate bill 1291, for the relief of James W. Watson. It will take but a few minutes to dispose of it.

Mr. TELLER. I will yield, reserving to myself the privilege of resuming the floor if the bill shall lead to debate.

JAMES W. WATSON.

Mr. McLAURIN. I now ask unanimous consent for the present consideration of the bill (S. 1291) for the relief of James W. Watson.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill; which had been reported from the Committee on Indian Affairs with an amendment, to strike out all after the enacting clause and insert:

That the balance due from the Merchants' National Bank of Helena, Mont., to James W. Watson, amounting to \$13,113.69, be, and the same is hereby, allowed by the Office of Indian Affairs and the accounting officers of the Treasury Department, and said accounts of James W. Watson, late acting United States Indian agent, Crow Agency, Mont., be credited therewith, allowing him to be fully discharged from any further liability therefor.

Sec. 2. That the said James W. Watson, after the balance of his accounts shall have been passed upon by the court before which they are now pending, be authorized and allowed to submit the same to the Office of Indian Affairs, for the purpose of correcting his record at that office.

Sec. 3. That the said Watson be, and he is hereby, authorized and empowered to show before the court the expenditure of said moneys charged against him under the act of July 4, 1884, and other acts or parts of acts, by supplemental vouchers, or facts, or other testimony which shall be accepted by the court, such as showing to the satisfaction of the court the expenditure of said sum so charged back for the uses, purposes, benefit, and good of said agency and the Indians thereof.

Sec. 4. That this act shall take effect and be in full force and effect from and after its passage and approval.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the Committee on Indian Affairs.

Mr. SPOONER. I should like the Senator who has the bill in charge to make some explanation of it.

Mr. McLAURIN. Mr. President, the Senator from North Dakota [Mr. McCUMBER], who reported the bill, is really more familiar with the facts than I am. This is a bill to relieve, as the title states, Capt. James W. Watson, of the Tenth Cavalry. He was appointed just before the Spanish war as an agent at the Crow Indian Agency, in Montana. When he received the appointment he found certain moneys, to be used for the benefit of the Indians, deposited in a bank. He left that money in the bank. Afterwards the bank failed while the money was there, I think amounting to about \$38,500. Twenty-odd thousand dollars of the money has been paid by the bank since it has been in liquidation.

Mr. SPOONER. Was it a national bank?

Mr. McLAURIN. I do not remember what bank it was, but the report shows.

Mr. McCUMBER. It was a national bank, Mr. President. I am acquainted with the facts.

Mr. SPOONER. What does this bill permit the claimant to do in the court that he could not do without it?

Mr. McLAURIN. I will state to the Senator, unless the Senator from North Dakota will answer that question—

Mr. SPOONER. I only want it in a word.

Mr. McCUMBER. I think the Senator from Mississippi could answer, but I will simply say that legally Captain Watson would, of course, be responsible, but not morally, considering the course of the dealings in the matter of Indian funds, which had been kept in the same bank by his predecessor and which he supposed he had a right to keep in the bank, although it was not a Government depository. He had really no legal authority for doing it, and this is to excuse him for the loss of funds by the defalcation of the bank.

Mr. McLAURIN. I would say to the Senator from Wisconsin, if I can have the attention of the Senator—

Mr. SPOONER. I am listening.

Mr. McLAURIN. I will say to the Senator that by the law as it stood at the time when this transaction occurred, if there were any mistake in a voucher, even if the voucher were for \$10,000 and there was a mistake of a dollar, the law required that the whole amount be charged against the agent. As shown by the report, it was impossible for the agent to be at all the places where these moneys were expended. The Government furnished him clerks—

Mr. TELLER. I yielded for the consideration of this bill

with the expectation that it would be passed without debate, but I can not yield further.

The PRESIDING OFFICER. Objection is made to the further consideration of the bill.

Mr. McLAURIN. I want to make one statement to the Senate with reference to the bill. This is a very important matter to this man.

Mr. TELLER. I must decline to yield if the bill is to lead to further debate at this time. It can be passed later. If I yield to one Senator I must to everybody, as it is a debatable subject.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. TELLER subsequently said: If the bill which the Senator from Mississippi [Mr. McLAURIN] called up can be passed without further debate, I will withdraw any objection to its consideration.

Mr. McLAURIN. I do not know whether or not it can be passed without further debate, if Senators object to it, but I should like to have it considered and I should like to have it passed.

I repeat, this measure is a matter of very great importance to this man. He is not morally responsible for the loss of any of this money; he is guilty of no moral wrong, and the Department say that he is not. The man has nothing in the world except his salary. He has been an officer of the Army for twenty-odd years, for he went to West Point about 1878, I think, and after he graduated he went into the Army and has been in the Army ever since. He has made a splendid officer. If this measure does not pass, it will drive him out of the Army and there will not be a dollar recovered for the Government. That is all I can say.

The PRESIDING OFFICER. Is there objection to the further consideration of the bill at this time? The Chair hears none; and the bill is before the Senate as in Committee of the Whole.

Mr. SPOONER. Mr. President, I have no objection to this bill, so far as it relieves this officer from liability for moneys deposited in the national bank at Helena and lost through the failure of the bank and through no fault on his part; but it goes beyond that and authorizes him to make supplemental vouchers for money that he had disbursed.

Mr. McLAURIN. If the Senator will allow me a moment, I can explain to him that there is not only nothing wrong in that, but there is nothing illegal in it and there is nothing inequitable in it. The Government furnished him clerks. One was C. H. Barstow and another J. A. Gogarty. Those clerks fixed up the vouchers, and if they made a mistake of a dollar in a thousand-dollar voucher that thousand dollars is charged to Captain Watson, and every other dollar of it has been paid. The bill only allows him to go before the court and show how much money really was paid out by him and to give him credit for every dollar paid, and nothing else. That is all the bill proposes to do.

Mr. SPOONER. All right.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SITE FOR PUBLIC BUILDING AT GREAT FALLS, MONT.

Mr. CLARK of Montana. I ask the Senator from Colorado to yield to me that I may enter a motion.

Mr. TELLER. I yield.

Mr. CLARK of Montana. Yesterday, when the bill (S. 544) to provide for the erection of a public building in the city of Great Falls, Mont., was under consideration, some amendments to it were adopted which it is now found require further consideration. I therefore move that the vote by which the bill was passed be reconsidered, and that a message be sent to the House of Representatives requesting the return of the bill, in case it has been sent to that body.

The PRESIDING OFFICER. The motion to reconsider will be entered; and, without objection, the House of Representatives will be requested to return the bill.

HOMESTEAD ENTRIES ON COLUMBIA INDIAN RESERVATION.

Mr. PILES. Will the Senator from Colorado yield to me?

Mr. TELLER. Mr. President, the Senator from Washington appeals to me to yield to him; I do not know for what purpose.

Mr. PILES. I ask unanimous consent for the present consideration of the bill (H. R. 18668) ratifying and confirming soldiers' additional homestead entries heretofore made and al-

lowed upon lands embraced in what was formerly the Columbia Indian Reservation, in the State of Washington.

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. TELLER. I yield.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. PILES. I move the amendment which I send to the desk.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. On page 1, line 3, after the word "all," it is proposed to strike out "entries" and insert "applications to make entry;" and at the beginning of line 7 to strike out "accepted at" and insert "filed in;" so as to make the bill read:

Be it enacted, etc., That applications to make entry under section 2306 of the Revised Statutes of the United States for lands embraced in what was formerly the Columbia Indian Reservation, in the State of Washington, heretofore made in good faith and filed in the local land office of the land district in which said lands are situated, under and pursuant to the practice of the Department theretofore existing, are hereby ratified and confirmed, and the Secretary of the Interior is authorized to issue patents in all such cases in which patent has not already issued.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

JUDD J. HARTZELL.

Mr. ALLISON. I ask the Senator from Colorado to yield to me for a moment.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Iowa?

Mr. TELLER. Certainly.

Mr. ALLISON. I am directed by the Committee on Finance, to whom was referred the bill (H. R. 7771) for the relief of Judd O. Hartzell, to report it without amendment, and I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa for the present consideration of the bill named by him?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay to Judd O. Hartzell, of Laharpe, Ill., \$960, to reimburse him for that sum paid by him for a technical violation of the internal-revenue laws of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PANAMA CANAL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6191) to provide for the construction of a sea-level canal connecting the waters of the Atlantic and Pacific oceans, and the method of construction.

Mr. TELLER. Mr. President, I desire to present some matters in connection with the character of the canal that we have determined shall be built to connect the waters of the Atlantic with those of the Pacific Ocean. I do not expect to go into the history of the canal. That has been done pretty thoroughly by the Senator from South Dakota [Mr. KITTREDGE], who has the bill in charge, and also by those Senators who have spoken in favor of the lock plan of canal.

In the early part of the session I submitted my ideas as to what the character of the canal should be; but since that time there have been statements made and arguments advanced that I wish very briefly to controvert. I desire, first, to address myself to the proposition whether the type of the canal should be determined by the question of cost. Here is an enterprise which I think everyone will admit is in magnitude, and perhaps in effect, the greatest national enterprise that any nation has ever undertaken; certainly it is the greatest in modern times. There may have been in the history of the world, particularly in prehistoric times, some enterprise carried on that may have required more labor and more effort than this, but certainly in modern times there has been no expenditure of money by a nation in any work of this character that would equal the amount that it is probable we shall be compelled to expend to complete the construction of the Panama Canal. That statement holds true whether we shall expend the amount of money estimated by the engineers of the world or whether it will require an expenditure that some who are not connected with the work believe will have to be made.

We have declared before the world that we are going to build an isthmian canal. A quarter of a century ago, when the French company undertook to build a canal across the Isthmus of Panama, we said in a very quiet way that there was no objection to a French company building such a canal; but if the French company failed, as it was anticipated by many that it would, then this Government would object to the French Government building the canal. So when the canal company did fail the French Government was prohibited and precluded from taking any part in the work of taking up the construction of the canal, even if it desired so to do.

The Senator from Illinois [Mr. HOPKINS] the other day said he thought they were too wise to do so. I doubt whether at that time they were too wise. The French people had put \$262,000,000 in the enterprise, and it was supposed then that \$100,000,000 more would complete the work. If that supposition had been well founded, which it was not, it would undoubtedly have been wise for the French Government to have saved, if possible, to the citizens of that country their investment.

I do not know that I am quite willing to subscribe to the suggestion made a few moments ago by the Senator from Alabama [Mr. MORGAN] that this canal is going to be such a great commercial success. That is a matter about which we may differ.

We have assumed the right to build this canal, and we have denied the right of any other Government to build it. To-day we deny to any company or any corporation or any combination of capitalists the right to build it. We stand there saying, "We will build this canal." That being so, shall we stop and consider what it shall cost? The individual who enters into an enterprise, great or small, should rightfully and properly consider whether his resources will enable him to complete it. Does anybody here, Mr. President, believe, whatever may be its cost, whether it be \$247,000,000 or \$500,000,000, that this Government is able to complete this enterprise? It is too late, in my judgment, to consider the element of cost.

Then, there is another element, upon which apparently both the junior Senator from Illinois [Mr. HOPKINS] and the Senator from New Jersey [Mr. DRYDEN], who spoke yesterday, place much reliance. That is the element of time. In my judgment, we have not any business, under the conditions that now exist, to consider how much this canal will cost, neither have we any business to consider how long it will take to complete the enterprise. Other people might possibly have completed it in less time, but they were not allowed to do so.

When you have considered the question of cost, in the first instance, and when you have considered the question of time, you have got to consider what is the type of canal that the business of the world demands. What kind of a canal is it that we are under obligations to build? Not only a canal that can take the small ships from one ocean to another, but one that will take every ship and any ship that comes. Our determination to do that is foreshadowed and declared by the Spooner Act.

I know, Mr. President, that the minority of the Board of Engineers say that it is doubtful whether the great ships of the world will ever want to go through the canal. I do not know that they will; but I think that will depend upon the type of the canal. I am sure it will be very doubtful whether the great ships of the world will go through it if it is built with locks.

It is necessary to refer briefly, but not in detail, to what has been done on this canal. When the man who had won fame by his success in building the Suez Canal had taken hold of the project of a canal across the Isthmus of Panama, it was thought that it would be carried to completion; but when the money that ought to have gone into the canal had been largely wasted, at all events, when the De Lesseps Canal Company had reached a point where no more money could be secured, they stopped work on the canal and stood still, and the company went into bankruptcy. Then there was organized another, a French company, with a moderate amount of capital compared with the amount that would be required to complete the work. Everyone who knows anything about it knows that that company was organized to save as much as possible out of the wreck of the old company. They had then under their concession from Colombia nine years in which to complete the canal. A board of engineers of European reputation and some American engineers were employed by this new company to determine how they could save something out of the wreck.

Let me say that when this technical commission came to make their report—and I have it here on my table—they said it "has been demonstrated, as far as we have gone, that a sea-level canal is feasible." That was one of the first enunciations

of that board of engineers; but they then said—not in the exact language, of course, that I am using—"We have got nine years in which to build the canal. It will take us one year to organize and secure money enough to go on. Can we build the canal on the original plan within the time and for the money we can raise?" They decided that they could not, and the company's instructions to the board—and any Senator can read them here; I am not going to stop to read those things; but they are printed in a document here to which every Senator can have access—were: "You must consider two items when you come to decide this question. First, can you build the sea-level canal in eight years? We have nine years within which to do it, but it will take us a year to get ready to start." The answer was, they could not. Then it was asked, "Can you build it for the money we can raise?" The engineers answered, "No." Then they said, "In determining the type of the canal you must keep in sight all the time the conditions under which you are to build it. First, you have not time to build a sea-level canal, and, secondly, you have not the money with which to build it."

Mr. President, I have read everything, I think, that has been published upon this subject in the last twenty years, and I say here that no board of engineers have at any time said that it is impossible or impracticable to build a sea-level canal. Individual engineers may have said it. In 1879, when the engineering talent of the world was assembled at Paris, nearly ten times as many engineers declared in favor of a sea-level canal as declared in favor of a lock canal. I challenge anybody to show me that any engineer in that meeting ever suggested that a lock canal would be better than a sea-level canal. On the contrary, the American engineers who objected to a sea-level canal objected solely and entirely upon the ground that the commerce which would go through the canal would not justify the building of so expensive a canal. I state this to meet the statement which has been made twice on this floor that the technical committee declared it was impracticable to build a sea-level canal—impracticable, as they said, under the conditions existing, poverty and lack of time.

Mr. President, I have read the report of the majority of the Board, and I have read the report of the minority of the Board. I have read the report of the Isthmian Canal Commission. I have read all these papers carefully. Yet I venture to say not a report has come here, except within the last year, which would justify anybody in saying that if the cost of a sea-level canal was the same as that of a lock canal it would be better to build a lock canal. Eliminating the element of cost and considering only the element of advantage, I venture to say you can not get in this country 5 per cent of the respectable engineers who would not assert that a sea-level canal is better than a lock canal.

I have had the opportunity in the last ten years of consulting and conversing with a large number of American engineers, some of whom have been on the ground. One of them was one of the best engineers in this country. He has had no connection with these recent transactions. He is as able as any man on the Board. He spent a year down there. I believe every man of that class will say "If you can build a sea-level canal for the same money, of course you should build a sea-level canal."

Those, Mr. President, are the points with which I want to start out. As I have said, I do not intend to make an extended speech on this subject. I went over the matter at considerable length in the early part of the session. I listened yesterday to the Senator from New Jersey [Mr. DRYDEN], and I am sorry his speech is not in the RECORD this morning, so that I could quote him exactly in the somewhat pathetic appeal he made to us to build the best canal that could be built. I sympathize with him in that sentiment. I put myself on record in December last that there was an obligation on us, which the world expected us to fulfill, to build the very best canal that could be built. The Senator from New Jersey concludes and certifies himself that the best possible canal which can be built is a lock canal. He quoted the chairman of the Commission, Mr. Shonts, and he quoted also the Chief Engineer of the canal in support of the declaration that if you could build a sea-level canal for the same money you ought not to build a sea-level canal, but you ought to build a lock canal. Mr. President, Mr. Shonts is not an engineer. He is a railroad man and has been engaged in running a railroad across the prairies of Illinois and Indiana. There is no evidence that I know of that he has ever dealt with any great enterprises in any shape or manner. I can tolerate that statement made by a layman. But Mr. Stevens is an engineer by profession, by education, and by experience, and when he says to the Board of Engineers, when he says to the country at large, that, in his judgment, a sea-level canal is not as valuable as a

lock canal, and that, eliminating the idea of expense, he would build a lock canal, I say, with all respect, that he discredits himself before the engineers of this country.

I venture to say that no man who is not a partisan of a particular type of canal, and who has not an end to serve, and who has any reputation as an engineer, will stand before the world and say that an open-water cut across the Isthmus is not better than climbing an elevation of 85 feet.

Mr. President, I desire to say a few words about time. As I have said, I do not think we should consider the matter of time. What difference does it make to the American people whether it takes eight years or twelve years? Are we to derive so much immediate benefit and advantage from the building of the canal that we must make haste to build it? I desire to call the attention of the Senate to a statement made by the head of the Panama Canal at Atlanta on the 30th day of May. Mr. Shonts made an address at a banquet:

In his formal address this evening Mr. Shonts said that between the time of the selling of the supplies which will enter into the construction of the Panama Canal and the period when the opening of the canal will result in the development of the country a gulf is fixed. How great and how wide that gulf is will depend on the type of canal selected. Mr. Shonts spoke in favor of a lock canal, as recommended by the minority of the consulting board and endorsed by the Canal Commission. He said, in conclusion:

"The practical question for all sections of the country is. How long shall we wait before we can enter upon the period of development which the opening of the canal will bring to the country? I am not surprised that European countries are indifferent to the early completion of this canal. I am not surprised that they are indifferent as to how much this canal may cost our Government. I am not surprised that they can view calmly an indefinite postponement of the opening of this great waterway. They are neither paying the bills, nor will their commerce and industries suffer by waiting for the completion of this undertaking."

"But I am surprised that those who are supposed to represent the best interests of the American people—

That, I suppose, refers to the American Senate and the American House—

should try to throw obstacles in the way of realizing the benefits of this work at the earliest possible date. When we can get a better canal for less money, and receive the benefits ourselves, why wait; why make it a heritage to our children, with the possibility of their being deprived of its benefits through some unforeseen contingency?

I have spoken of a gulf. Now, how wide that gulf shall be depends on the people. Do you want to reap the benefit of this undertaking yourselves, or do you want to transmit a hope to your children or your children's children?

Mr. President, Mr. Shonts's idea is accepted by the Senator from Illinois [Mr. HOPKINS] and the Senator from New Jersey [Mr. DRYDEN] as to some extent controlling us in our determination of this question. That is particularly true of the Senator who addressed us yesterday, the Senator from New Jersey, who dwelt with much force upon the idea that he advanced as coming from Mr. Shonts and Mr. Stevens. I was sorry that one or the other of the Senators did not tell what the immediate benefit is to be to this country from the canal. I am one of those who do not look forward to any immediate advantage, nor in the future to any great advantage that will accrue to us as a nation. We will open the canal to all the world on the same terms that our own citizens use it. Every American ship will pay according to its tonnage the same rate as every European ship will pay. It does not make any difference whether the ship is going to China or going to San Francisco from New York, or any other city; it will pay the same.

If, as anticipated, there shall be a tremendous commerce going through the canal, the money that we put in will be returned in the way of interest. But I am not one of those who have been so hopeful of this return. However, no one of the advocates of the lock canal has yet told us why we should sacrifice the character of the canal for the sake of saving time or money. It is true, the other day the junior Senator from Illinois [Mr. HOPKINS] told us that all the money put into the canal which was wasted, or the money that was put in beyond what was necessary, came out of the taxes paid by the people. That is true. It all comes out of the taxes paid by the people. The people who do the business of this country will pay for it. But if the canal is to be so advantageous as Mr. Shonts and some other gentlemen think, then it will make but little difference whether it costs \$247,000,000 or \$325,000,000. If it pays a good round interest, it will be a good investment. I wish I could be as optimistic about it as is the senior Senator from Alabama [Mr. MORGAN], provided, he says, it is a success.

Mr. President, if there was to be immediate gain, if there was prospect of immediate returns to a considerable extent more than anybody now claims, I do not believe we would be justified in sacrificing the character of the canal for the purpose of immediately participating in those gains. If the canal is built, it ought to be as good in a thousand years, or in two thousand years, as ever, and if the interests of mankind demand a water-

way across there to-day, they will certainly demand it in all time. I join with the Senator from New Jersey in saying that this is the opportunity for us to get the best canal that can be made. I deny the conclusion at which the Senator arrives—that the best canal which can be made will have locks by which the ships of the world must climb over a mountain.

Of course, I know there are lock canals which are a success. In New York is the Erie Canal, from Buffalo to New York. It has been a great success, and the State is about to expend a hundred million dollars more on it to increase its capacity; and it will be a success. But it is not anything like this canal, nor will this canal be anything like the New York canal. I know there is a canal between the Great Lakes. We call it the "Soo Canal." It has carried a tonnage greater than any other canal in the world, and it has been a great success. It belongs to the Government of the United States. It has been a great help to commerce. That canal is 2 miles long, or to be accurate, 1.6 miles. It has a lock, a lock which lifts less than 20 feet—19 feet and a fraction, if I am not mistaken. It has one lock. The lock that is to be built on this canal will have a lift of practically 30 feet—almost 29 feet. Instead of there being one lock, there are to be three locks on the Atlantic side and three locks on the Pacific side. The Manchester Canal has some locks, but their lifts are nothing like the lifts on this canal.

Mr. President, I challenge the friends of the lock-canal system to show anywhere in the world a lock canal like unto this. There is none. There is no place on the Manchester Canal or any other canal in Europe where there are three locks in succession by which a ship must climb a hill. I do not care to go into details, but I wish to suggest to the Senate, I wish to suggest to intelligent business men, whether it is not much more difficult to carry on a canal with three locks, one above the other, than it is a canal with one lock. I want to ask any intelligent man—he need not be an engineer—what would happen to a great ship like one of those that Mr. Hill is running now from our western ports to Asia if, in going across from either side, an error should occur in the handling of the ship and the ship should go with its great weight against one of those gates. The gate has not been built, and it never will be built, which would hold one of those ships, and when it strikes one of those gates, it would go down clear through to the bottom. The chances are a hundred to one it would carry the flight with it. If anybody doubts that, let him take the testimony of Mr. Hunter, who is on this Board and who has had as much to do with this question as any man in the country, unless it may be Mr. Davis.

But you do not need an engineer to tell you the danger of a lock canal. I see the minority of the committee say that these gates will weigh 450 tons. They will weigh practically twice that if we get the right kind of gates. They should weigh 800 tons, and they will weigh 800 tons. The lowest estimate I have seen made by anybody has been 750 tons; and the minority of the committee says 450 tons. These gates must be handled, not as we handle the gates on the old Erie Canal, where they put in a couple of gates, with a long timber sticking out, and a man goes on the timber and moves the gate and swings it around. That can not be done with these gates. With 30 feet of water against them they can not be opened and they can not be closed except by machinery, and delicate yet powerful machinery at that.

For fear I may forget it, I wish to suggest here that in these days of dynamite it would be easy for somebody to step in and with a piece of dynamite which he could carry in his vest pocket disable every lock in the whole flight. It may be said that will not be done. Probably not in ordinary conditions; probably not in the usual conditions of life. But suppose we were having trouble with some foreign power, and we had our Pacific fleet on the Pacific side and wanted to bring it across. Do you believe it would be difficult for some power to shut off our right of way, you may say, across the Isthmus? How easy it would be! "Oh," they say, "you can guard it." But you would need an army to guard it.

On the other end there is to be a lock under any conditions. There must be. As was said here by the Senator who has this bill in charge, in the admirable presentation he made of this case when he opened it, that is a lock which will stand open half the time; nay, more than half the time. It is a lock which, if destroyed, will not destroy the canal. But the flight of locks on the other side will be within reach of the great guns of the navies of the world, and every one of those locks can be put out of commission in an hour by a great naval ship. But I will not anticipate such troubles. I will not anticipate a war. I will anticipate that persons hostile to the carrying of ships through there may do this, and they can do it readily and easily. And yet the minority of the committee tell us that they prefer a

lock canal to a sea-level canal, because they say a ship can go through it quicker than it can through a sea-level canal. When the ship enters the water at sea level, it will steam cautiously through, I admit. But it does not make much difference whether it goes through in fifty-five minutes more or fifty-five minutes less. The question is, Can the ship go through safely, and through which canal can it go with the greater safety?

Mr. President, I desire to touch very briefly on the question of the dam. I will say that I am not going into an extensive argument on this subject, for, in my judgment, every Senator has already practically made up his mind for what kind of a canal he is going to vote. I will first speak of the character of the canal which the President is going to build if we do not intervene. It is said the President will build a lock canal, because he is authorized to do so by the Spooner amendment. That was a remarkable amendment, I admit, one which perhaps ought to have been modified. I voted for the Spooner amendment. I voted for it with the declaration from my place here that I did not believe we ought to build a canal at all. I voted for it with the declaration that if we built the canal at all it ought to be a sea-level canal; and because you could not build a sea-level canal on the Nicaragua route, I would vote to allow the President to build the canal on the Panama route, if he saw fit, and if he could make proper arrangements with the French company. So I voted for it.

We had a plan submitted by our Commission for a canal across there, if we undertook to build it, and that was to be a lock canal. I knew it was a lock canal. If the President of the United States has any authority to build this canal without our indicating how it shall be built, he is bound to build the canal which was thus laid out for him to build. He has no right to build any other.

The Walker Commission proposed a dam at Bohio. The present proposition of the minority of the committee is to build a dam at Gatun. To-day there is not an engineer in the country who would advise the building of a dam where the Walker Commission or the Isthmian Commission suggested it ought to be built. Nobody pretends that it could be built with safety there. The Commission on two occasions declared that it was the only place where they could build a dam across that river; that there was no other place between that and Colon where a dam could be built.

But it is said that the President has a right to build a dam somewhere else. I deny it. Therefore I think it is incumbent on us to fix the type of the canal and fix the place where the dam shall be built, if dams are to be built, and of locks, if locks are to be built.

Mr. President, I will spend very little time on the question of the dam. The Senator from New Jersey yesterday went into an extensive discussion of the character of the dam. He said that it would be a mile long and half a mile thick and is to hold a body of water 85 feet high. That dam can undoubtedly be built, and the plan the minority suggest is the best possible way that it can be built—that is, by the use of water, transporting the material to the dam through water and depositing it. That is the best way you can build a dam. I have no doubt that you can build a dam there that for a time at least will hold the water that is put in it. I doubt myself whether there would be very much seepage through a dam built in that way of the width that it is proposed to build it.

But, Mr. President, that it not the vice of this dam. The vice of this dam is in the foundation; it is in the ground upon which you build it. The same objection rests at Gatun that rests at Bohio as to the foundation. They tell us, as they told us at the other place, that they had bed rock. Yet when a man went there who knew enough to see that one hole down there does not determine the character of the subsoil and does not show what is below 100 or 200 feet, it was found that what they had called a bed rock were simply floating rocks in the mud and debris that had been washed in there. The same identical thing exists at Gatun, except that it is said that there is some clay somewhere there. Yet it is admitted that there are two places of several hundred feet where no foundation can be had.

It has been suggested, and it was suggested before the committee that that difficulty could be met by putting in a foundation. But that is not the plan of the minority. The plan of the minority and of the minority board is to put a dam there and depend upon the weight of the dam to hold the water from the horizontal thrust and keep it back. They have lost sight of the fact that this dam will cover a large area of ground, and that the weight of the water 85 feet high will be upon every square foot of it. Everywhere the weight will be pressing down. They admit that in the borings they made, they found that water percolated through. I notice that our committee say

that the water evidently did not come from the river, but probably came from the hills.

Mr. President, it did not come from the river, and it did come from the hills, and it shows that there are waterways existing now under the dam. If it had come from the river the weight of the water might have kept it out, but it is coming from the hills above, and when the pressure of the water shall force the water down into that soft, muddy ground it will meet the little rills coming from the hills and you will find your dam with water seeping under it and ultimately washing it away.

At least, Mr. President, this is an experiment. There is no such dam on the face of the earth and never has been. I challenge any member of the committee to show any dam that corresponds in character with it. No dam has ever been built upon that character of ground without some preparation to protect the underdrain. There are very few engineers who will not testify that that is the danger which threatens this dam. It is not that the dam will be pushed over by the weight of the water.

Mr. President, for twenty years I have made a study of dams. I have made it because in my section of the country it is necessary to some extent that we should do those things. I have made it because I have had a taste for those things all my life. I can state here that I believe I have read a description of the character of practically every great dam in the world, and I say now that no engineer has been brave enough or reckless enough heretofore to propose the building of a dam under the conditions you propose to build this dam. If anybody doubts the statement I am making let him go to the records. Go to your library and take the works upon dams. Take the French works. The oldest dam in the world, outside of India, and the highest dam in the world is in Spain. It is three or four hundred years old. I do not deny but that you can build an earth dam, but I do deny that there is any reason to suppose that you can maintain a dam on that character of a foundation.

A few years ago in France a dam was built upon what they said was solid rock. It was a dam considerably less in height than this. It stood for a number of years, and then it went out. It was a masonry dam, and five or six hundred feet went out at a single time.

Forty years ago, or thereabouts, I should say—and I speak only from recollection; it may not have been more than thirty, for I have not looked it up—the city of Bristol, in Great Britain, built a dam for city water. It had stood a number of years, and then it suddenly went out, to the great destruction of property and a considerable destruction of life. The best engineering talent of Europe was called and sat there for weeks and months to determine the defect in the dam. They unanimously reported, when they got through, that all the highest engineering talent had been displayed in the building of the dam and that they could find no reason whatever why the dam went out; but there was the patent fact that it had gone.

So, Mr. President, you can not depend upon a dam, not even if it is made of the best material. No man can say whether a dam will be safe or not, and any man who thinks, without knowing all the facts connected with its foundation, simply guesses as to what it will do.

Mr. President, I suppose most of us remember the Johnstown flood. I understand the fault about that; and I am not going to say that the same trouble which grew out of the Johnstown dam is likely to grow out of this dam if built at Gatun. I think it is very doubtful whether there will ever be a flood big enough to fill up this dam to such an extent that the water will go over the top. But if it ever should do so, that would be the end of the dam. If a waterway as big as my arm should find its way under that dam, with that great pressure on it, it would go as certainly as if hundreds of cubic feet went over the top.

At Johnstown the dam had stood for many years. Suddenly it went out with a great flood. There was no core built up. No earth dam ever built ought to have been built without a core in it, a cement core, a stone core, or something of that kind. Looking over the reports of the engineers, I find that they say if there had been a core in that dam when the water that went over the dam struck the core the dam would have held it and the disaster would not have occurred.

Mr. President, this is a case where when you come to build a dam you should build it in such a way that there is no possibility of its going out. The Chagres River, which is being considered and must be considered in connection with this enterprise, has in the last thirty years had some tremendous floods. It had a flood some years ago such as has not occurred since and may not occur in a hundred years. The floods are somewhat like earthquakes. They come when you do not expect them. But

yet when you build a dam of that kind, upon which the whole character of your canal rests, there should be no possibility of its going out. That river might rise double what it has for the last twenty years and produce twice as much water. The dam must be built with reference to that. You must prepare against a possibility and not a probability.

Mr. President, some of the best engineers in the world have declared that it is recklessness to build a dam at Gatun. The Senator from New Jersey yesterday spoke of Mr. Hunter with some criticism. He said Mr. Hunter had been in favor of the new French lock canal. He was given this question to determine: "You must find for us a canal that we can build within eight years, and you must devise a canal that we can build with the money that we can probably raise." So he said the lock canal was the best under the circumstances. I have here somewhere Mr. Hunter's letter. I am not going to read it, but I wish Senators who want to know something about this subject would send for Document No. 456 of the Fifty-ninth Congress, the present session. In that document there is a statement made by Mr. Hunter. I know no reason why Mr. Hunter should misstate anything in connection with this matter. It is a letter that he writes addressed to the Senator from Alabama, who has given much attention, as all know, to this question for the last twenty-odd years. I wish Senators would read Mr. Hunter's letter.

Mr. President, looking at the clock I discover that I am not keeping my pledge that I was going to make a short speech, but I will practically quit. I want to say only a few words more. If we build this canal, every impulse of our American spirit ought to require us to build the best canal that can be built. I am not enthusiastic about it. I can not see the benefit that will come to the American people by building it that some of you do. But I am enough of an American to feel that I would rather we would sacrifice that extra hundred million dollars—nay, I would rather you would sacrifice the entire cost of the canal than that you should build a canal which the business men of the world would condemn.

I am not afraid of bankrupting this Government. I know our expenses are great, but our income is great, and if we choose to borrow the money to build this canal we can borrow it cheaper than any other people in the world.

If we have to build this canal, let us build it not looking simply to the question of its cost, but what will be the type that shall meet the demands of the world now and for all time to come. If it pays, well and good. If it does not pay, let us contribute like men to the world's advantage. At least we will have the satisfaction of knowing that when we commenced a great enterprise we concluded it in a way to be creditable to the American nation.

There are a hundred things which might be said about this canal that I thought I could say in less time than I have been speaking, and that I should like to say under other conditions than those which now exist here at the close of the session.

Mr. President, I want to say a few words on another point, though I dislike to criticize anybody. In the early part of this session we had questions of salaries and criticisms of conduct of officials. I want to repeat what I said one day in the Senate.

The engineering questions of this canal are settled. There is enough engineering experience now to know what you want to do and how to do it. What you want now down on the Isthmus is a man who can organize the labor and carry it on and do it. There will be difficulty in getting that kind of man, I know. We had a man there, Mr. Wallace, from whom I intended to quote some things he said about the canal if I had had the time. Mr. Wallace is not only an engineer, but an executive man. I do not think, as the junior Senator from Illinois [Mr. HOPKINS] thinks, that he is so prejudiced that his testimony is not to be taken into consideration. We had him there on the Isthmus.

Mr. President, here have been the headquarters of the canal. Here are the headquarters of the canal now. The superintendent is here; Mr. Shonts is here; Mr. Stevens is here. I admit they are engaged. They have been traveling around the country telling us what kind of a canal we ought to have. I suppose they will continue to draw these immense salaries of theirs, salaries that I do not complain of if they will go on the Isthmus and attend to their business. But when a man is drawing in two months or less as much as I draw in a year for my services here, common decency requires that he should be where, in my judgment, his duties properly call him.

I do not believe that you can build this canal from here. There has been nothing done on the canal since the 1st day of last August that amounts to anything at all. How long will it be before there will be more done?

Now, Mr. President, I am not making haste. I notice that the Senator from Illinois [Mr. HOPKINS] said it would take twenty years to build a sea-level canal. The Senator from New Jersey [Mr. DRYDEN] simply raised it five years, and said it would take twenty-five years. The minority said it would take fifteen years. I presume the committee of our body knows better what it would take than even the Commission, who are so confident that they know best what kind of a canal we are to have.

Mr. HOPKINS. I may not have understood the Senator correctly. The Commission said it would take twenty years.

Mr. TELLER. What the Commission said was fifteen years.

Mr. HOPKINS. Oh, no; let me correct the Senator.

Mr. TELLER. You can not correct it, because my statement is correct. I think I can turn to it in a minute.

Mr. HOPKINS. The Commission say twenty years. I know the Senator is wrong.

Mr. TELLER. I do not care myself whether it is fifteen years or twenty years, only I thought it was hardly fair—

Mr. HOPKINS. I only wanted to correct the Senator, as a matter of fact. The Senator will find, if he looks at it, that the minority report of engineers fixed it at fifteen years, and the Commission, when they examined it, fixed it at twenty.

Mr. TELLER. Does the Senator refer to the Canal Commission?

Mr. HOPKINS. Yes, sir.

Mr. TELLER. Oh, I did not mean the Canal Commission. There are some members of that Commission whose judgment would be worth something, but we submitted this question to a board of engineers noted for their ability. Eight of them said that it could be done in twelve or thirteen years. The others said it could be done in fifteen years.

Mr. HOPKINS. That is right.

Mr. TELLER. That is what I am talking about.

Now, Mr. President, I doubt myself whether it can be done in twelve or thirteen years, and I should be surprised if the lock type of canal does not take twelve or thirteen years.

I might spend a little time to show how long it will take to build these locks. As I have said before, there have been no such locks built in the history of mankind. No engineer can tell how long it will take. The locks must be built with care. There is not a man who has given any attention to these questions who does not know that you can build a lock that will not have half the resisting strength if you hasten it and build it carelessly. The amount of time necessary to solidify and prepare it for use is considerable. When the locks are done, when the last mechanic leaves them, there ought not to be a drop of water put in the locks for the next twelve or eighteen months. That is the way the whole body, 3,000 feet in length, with its two flights of locks, may become homogeneous, and it will not be homogeneous if you begin to use it immediately after it is completed.

Safety is worth more than time to us in this matter. After all, the question is, What is the best canal we can build? I think everybody will admit that we ought to have the best. Nobody is willing to deny that, and yet we hear that a better canal can be built if you put in locks than if you cut a waterway clear across the Isthmus.

Now, Mr. President, I have taken more time than I had intended to take, and I am very sure I have taken more time than was profitable to the Senate; yet I should like to take up—and I would do it if it was the beginning of the session—these several items. I would show the difficulty and the danger in every step that the minority propose. I believe it can be demonstrated before the American people, as it was demonstrated before the board of engineers, that the only safe canal is a sea-level canal.

Mr. President, the Senator from New Jersey dwelt with considerable force upon the fact that one more American engineer had declared for a lock canal than had declared for a sea-level canal. Nationality does not give men brains nor judgment. While I am proud of American achievements, I take off my hat to many an engineer who never put a foot upon American soil—engineers who have solved the greatest questions that ever interested the engineering world.

You will find on American soil to-day engineers whose voices have not been heard on this question who are as capable as any man of the minority or of the majority, and they stand with me that it should be a sea-level canal. I will arrange on my side of this controversy every practical shipowner and shipmaster of this country, without exception. I challenge you to find a single shipmaster who will ever tell you that a lock canal is better than a sea-level canal. He will protest from a practical standpoint that it is not safe to put a great ship in a lock.

Mr. President, I want to say one or two words on one other

proposition. When this canal is built you will have to meet the competition of the Suez Canal; you will have to meet the competition of the transcontinental routes; you will have to meet the competition of the line recently built across the Tehuantepec Peninsula.

I have on my table here a statement made by an engineer whom I will put against any engineer who has been connected with this matter, and that is Mr. Wallace. I have Mr. Wallace's statement as to what the Tehuantepec Canal can do by way of carrying freight across that canal, the ship unloading it in the Gulf harbor, the railroad taking it from the ship in the Gulf harbor and putting it again on the ship in the Pacific harbor.

Mr. President, you will have to lower your tariff on the canal. That railroad across there can carry a ton of freight, taking it from the ship and putting it on the other side, for less than you propose to charge for carrying it across the Isthmus on this canal when it shall be completed. You will have to meet that, Mr. President. You will have to meet other competitors. You will have to meet in the next fifteen years five or six more transcontinental lines. Therefore, if you mean to make a financial success of this enterprise you must secure the business of the world, at least the business of the world that goes to the Pacific sea.

Mr. BACON. Mr. President, before the Senator takes his seat, if he will permit me, in connection with the mention of the Tehuantepec route, I want to state a fact which is probably not as well known to the public now as it was twenty or thirty years ago. There is in the Navy Department now on file a most interesting report of the commission that was appointed to survey the Tehuantepec route. The profiles and the estimated cost and the practicability of the work are all set out in detail.

For myself, while I never made any effort on that line, because I realized that it would be useless in view of the consensus of opinion in favor of the more southern route, I have always been of the opinion that the best route for a transcontinental canal which could be adopted was the Tehuantepec route, with 40 miles of a navigable river sufficient for the floating of very large vessels. There are 40 miles of that river, the name of which I have forgotten. It is a Mexican name.

I do not know whether or not the business of the world is going to develop to the extent which would justify more than one canal, but if it does, in my opinion the time may come when that will be the most formidable rival that we shall have for the business of an isthmian canal between the two oceans.

Mr. TELLER. Mr. President, at the risk of extending my remarks somewhat longer than I intended, I want to say that a good many years ago I examined this question pretty thoroughly in connection with the late St. Louis engineer, Mr. Eads, who considered that question in connection with the canal and also in connection with a ship railway. I had the pleasure of a personal acquaintance for many years with Mr. Eads, whom I regarded at the time of his death as the greatest engineer on American soil. He was the man who built the jetties at the mouth of the Mississippi River, a project condemned by every American officer and engineer of the Army, and condemned by a very large proportion of the American engineers on this continent. On his guaranty the Government agreed to pay a large amount of money for putting those jetties into operation, and the work proved to be a great success. Mr. Eads was the engineer who built the great steel bridge at St. Louis, a bridge which I suppose everybody here, more or less, has crossed over. He devised a system of railroad tracks on which to haul a ship out of the water and drop it into the water on the other side of the Isthmus. I am not certain but that, if he had lived, he would have carried out that plan. I know engineers differed as to whether or not that plan was feasible. While his plan was not by any means so satisfactory for handling ships as a canal would be, yet he could have carried a ship across the Isthmus in that way. There would have been the same liability to accident in that method of transporting ships as there will be in carrying ships through the canal. But, Mr. President, the place for the ship is in the sea or in the river; it is not on the land. When a ship gets out of water it is like a fish when it gets out of water. The fish is not at home, and neither is the ship, and both are liable to all sorts of accidents. While I was a great admirer of Mr. Eads, I always had my doubts as to whether his was as wise a plan as the plan of crossing the Isthmus by a canal.

We have had various routes selected for a ship canal. I am not at this hour certain that we have selected the best place for such a canal to cross the Isthmus. The only question as to whether Darien is the best place is as to whether or not the mountains, which in the prosecution of such a project have to

be tunneled, are granite. Nobody knows to-day whether or not they are granite.

We have gone into the construction of this canal without much thought and practically without much knowledge. I am afraid, Mr. President, when we get through with it, we shall feel that we have made a mistake. I do not want a further mistake made when we build a lock canal because we can build it in somewhat less time than we can a sea-level canal.

All I can say, in conclusion, is, that I wish Senators who are to vote on this subject would look into it and study it, and if they have any partisan feeling about it—I do not mean political partisanship, but I mean if they feel they are committed to one canal or the other, I hope they will feel free to consider it and determine between this session and the next session—for, of course, I am confident we are not going to dispose of this matter by any vote we may give here—so that we may settle this question in such manner that the nations of the earth will be satisfied with our effort to accomplish what for the last four hundred years has been considered more or less by the whole world.

Mr. President, this is a great enterprise. It can bring to us much credit and great glory, and it can bring to us much discredit and disgrace if we build a canal which ought not to be built.

Mr. KITTREDGE. Mr. President, if no other Senator desires at this time to address the Senate upon the unfinished business, I ask unanimous consent that it may be temporarily laid aside.

The PRESIDING OFFICER (Mr. FLINT in the chair). In the absence of objection, the unfinished business will be laid aside temporarily.

LAKE ERIE AND OHIO RIVER SHIP CANAL.

Mr. PENROSE. Mr. President, under the unanimous consent agreement obtained last evening, I now ask that the Lake Erie and Ohio River Ship Canal bill be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the bill (H. R. 14396) to incorporate the Lake Erie and Ohio River Ship Canal, to define the powers thereof, and to facilitate interstate commerce.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on agreeing to the first amendment of the bill as it has been amended.

Mr. BACON. Mr. President—

Mr. CLARK of Montana. Before the Senator from Georgia proceeds, I wish to suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KEAN in the chair). The absence of a quorum being suggested, the Secretary will call the roll.

Mr. BACON. I will state that I do not want the roll called on my account.

The Secretary called the roll, and the following Senators answered to their names:

Allee	Daniel	Kittredge	Penrose
Ankeny	Dillingham	Knox	Perkins
Bacon	Dolliver	La Follette	Pettus
Berry	Dubois	Long	Scott
Blackburn	Flint	McCumber	Simmons
Brandegee	Foraker	McLaurin	Smoot
Bulkeley	Foster	Mallory	Spooner
Burkett	Frazier	Millard	Stone
Burnham	Fulton	Morgan	Sutherland
Carter	Hansbrough	Nelson	Teller
Clark, Mont.	Hemenway	Overman	Warner
Culberson	Kean	Patterson	Warren

The PRESIDING OFFICER. Forty-eight Senators have answered to their names. There is a quorum present. The Senator from Georgia is recognized.

Mr. BACON. I regret, Mr. President, that I was not permitted to finish the remarks I was proceeding to make upon this question when the bill was previously before the Senate, and I particularly regret that so much time has elapsed since then that it is difficult to resume and have the matter which I shall cover to-day directly connected with and relating to that which I endeavored to cover on the former occasion.

I regard this, Mr. President, as a very grave question, not simply with respect to the particular measure now before the Senate, although that is a very grave one, but also in respect of the precedent that it sets as the beginning of what will be a most marked departure, if we shall continue to follow it, and, as I shall endeavor to show, one of very wide and far-reaching consequences in the future business of this Government and the relations between the General Government and the States.

Of course I am not going to elaborate these great questions, for they are great enough to elicit not only all that I might say, but all that might be properly said by a great many other Sena-

tors much more capable of dealing with this important question than I am.

I will not attempt, of course, Mr. President, to repeat what I said on the former occasion, or even to make a synopsis of it. I will simply state, in order that the connection may be preserved, that I had endeavored to present to the Senate some reasons why this was not a proper piece of legislation for the United States Congress; that the creation of a corporation by Congress should be limited to the creation of such corporations as are required for the performance of great governmental functions, or for the performance of functions which corporations created by the States can not perform.

I had called attention to the proposition that even conceding—which we must do under the decisions of the Supreme Court of the United States—the fact that a corporation which is intended to subserve the purposes of interstate commerce is one which justifies Congress in the chartering of a corporation to be thus engaged, at the same time that was not the character of corporation which should be so chartered if that were the sole function to be performed and if that function could be as well performed by some State corporation. In that connection, I had called attention to the fact that doubtless an act chartering a corporation of this kind, in which it is recited, as it is in this proposed charter, that it is for the purpose of performing a governmental function, would be held by the Supreme Court of the United States to be a constitutional enactment. This would be so held, because the Supreme Court would not go behind the action of Congress to question the sincerity of Congress or to question whether or not that expression was inserted simply for the purpose of saving it from the condemnation of unconstitutionality on the part of the courts of the United States when they come to pass upon that question. The Supreme Court would not go behind that, and however insincere Congress might be in that recitation, however well known it might be that the purpose of that recitation was to save it from unconstitutionality, the Supreme Court would not undertake so to say.

I had stated to the Senate the proposition that when it came to the responsibility of Congress in the enactment of such a law, there was a high duty upon Congress to consider and determine the question whether or not the purpose was in fact and in truth to subserve some great governmental function which could not be equally subserved by a corporation created by a State; and that if, in the exercise of our duty, it was our opinion that the purpose was not to create a corporation for the performance of some governmental function that a State corporation could not equally well perform, even though we might be satisfied that the Supreme Court would hold such a law constitutional, our high constitutional duty was to carry out and make effective the spirit and intent and purpose of this constitutional restriction. In that connection I had quoted the very marked utterance of Mr. Webster in his argument in the great case of *Gibbons v. Ogden*, where he was contending for the exclusive power of the United States Government in that particular instance where the right to exclusive power in a matter which related to interstate commerce was called in question, and where the right to concurrent power on the part of the State of New York was contended for by the other side. Webster, while maintaining the authority of the United States and the right of the United States and the duty of the United States to control exclusively all matters which essentially and necessarily relate to interstate commerce, recognized that Congress should draw the line in legislation affecting the internal affairs of the States in such way as to preserve the exercise of their proper functions by the States.

That utterance of Mr. Webster was in response to the contention of those who represented the right of the State of New York to exercise concurrent authority in this matter. This was the contention on the part of those representing New York: That if it be true that the simple fact that a matter referred to interstate commerce vested exclusive power over it in the Congress of the United States and there was no concurrent power in the State, the conclusion necessarily followed that it not only related to that particular instance involving the right to control interstate commerce, but that it necessarily extended to every corporation or every agency which could be created or which might have part in the carrying on of interstate commerce. Mr. Webster replies to that by the statement which I have previously read, which is the pith of that part of his argument, that that conclusion was not a necessary sequitur; that it did not necessarily follow; but that while those matters which were essential in interstate commerce and so essential that they could not be performed by the States or by corporations created by the States, and that for the States to attempt such performance would cause confusion and conflict, still a reasonable construction must be given to the Constitution—

such a construction as, while it preserved the power of the United States, would still protect and recognize and respect the rights and powers of the States in the performance of their legitimate and proper functions.

I will not go over again, Mr. President, the argument which I endeavored to submit upon that question when I addressed the Senate two days ago upon this subject. My purpose to-day is to conclude what I had in mind on the former occasion in bringing to the attention of the Senate some of the practical consequences of our departure from this well-recognized rule and practice of more than a hundred years; for, while it is true that in some noted instances there has been a chartering of corporations by Congress for the purpose of interstate commerce, in most of those instances—the noted ones—the circumstances were peculiar and did come within the rule as laid down by Mr. Webster. I read from 91 United States Reports, where, in speaking of the circumstances under which Congress had chartered transcontinental railways, the court shows the peculiar circumstances which justified Congress in departing from the well-recognized practice which left to the States the chartering of these railway companies. I will take the liberty of reading it again in order that the connection may be kept up with what I am about to say. Referring to this act, the incorporation of a transcontinental railway, the Supreme Court, in the case of the *United States v. The Union Pacific Railroad*, in 91 United States, says:

The act, as has been stated, was passed in the midst of war, when the means for national defense were deemed inadequate, and the public mind was alive to the necessity of uniting by iron bands the destiny of the Pacific and Atlantic States.

And again in the same paragraph:

But vast as was the work, limited as were the private resources to build it, the growing wants as well as the existing and future military necessities of the country demanded that it be completed.

Mr. McLAURIN. From what case is the Senator reading?

Mr. BACON. The case of the *United States v. Union Pacific Railway Company*, in 91 United States Reports.

An additional fact which is alluded to in the decision, and which is known to us all, is that at the time of the chartering of that railroad possibly nine-tenths, certainly four-fifths, of that line of proposed railway lay across the public domain of the United States, then comparatively an unsettled, wild country.

It is true, Mr. President, that there can be found upon the statute book instances where some minor corporations have been chartered by the United States Government which would not by reason of any particular necessity for them measure up to the importance of these transcontinental railways which were thus chartered by the United States Government; but we know the fact that sometimes charters of that kind go through nem. con., nobody noticing particularly, whereas if they were challenged, possibly they would not have gone through. However, I think it may be asserted as a fact that in the long course of the legislation of this Government the general rule has been recognized that the chartering of corporations, even where within the law of constitutional right, has been limited to cases where such corporations were essential to the performance of governmental functions and where the performance of those governmental functions could not be as satisfactorily accomplished by corporations chartered by the States. The question is, Mr. President, whether we are to adhere to that recognized practice, even where we have the constitutional right to go beyond, or whether we will go beyond and open all the great consequences which must inevitably flow from such a departure on our part.

Before I conclude I intend to call attention to some of the features in regard to this charter, and then I will probably have a little more to say as to the question of the consequences which are to flow from this proposed action on the part of Congress if that action is to be taken as a precedent and followed hereafter.

Mr. SPOONER. Mr. President, will the Senator allow me to ask him a question?

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. Always, with pleasure.

Mr. SPOONER. The Senator, I suppose, has no doubt that the Government could build this canal itself?

Mr. BACON. None whatever, and I would infinitely prefer that the Government should do it rather than it should grant this charter to a company. I would very much prefer that the Government should do it, and I will give my reason before I get through.

Mr. SPOONER. If the Government might build it itself, of course it can exercise its constitutional right to choose the means by which it shall be built?

Mr. BACON. I do not dispute the constitutional right, so far as the question would be decided by a court to be or not to be constitutional.

Mr. CULBERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Texas?

Mr. BACON. If the Senator will pardon me until I finish my sentence, then I will yield with pleasure. But I say when Senators come to legislate they are not to be limited in the discharge of their duties to the simple question whether or not the court will decide a thing to be or not to be constitutional, but that the high duty rests upon the legislator not only to limit himself to such matters as in his opinion will not be within the condemnation of the courts for unconstitutionality, but to limit himself to legislation which, in his opinion, is in accordance with the intent and purpose and practical design of the Constitution, even though when he goes beyond that it may be in a case where the court itself would not interfere. Now I yield with pleasure to the Senator from Texas.

Mr. CULBERSON. The Senator from Georgia and the Senator from Wisconsin seem agreed that the Government of the United States may itself construct a canal between States. Without expressing any opinion myself upon that question, I should like to ask the Senator from Georgia upon what provision of the Constitution he rests that power.

Mr. BACON. I would rest it probably upon the same provision that I would rest the right to construct the Panama Canal—a matter of importance to the Government in military defense, or in various ways; the improvement of the commerce of the country; in the same way and for the same reason that the Government improves a harbor or anything of that kind. I think it would be legitimate.

Mr. MALLORY. In other words, the Senator would put it on the ground that it was a governmental function.

Mr. BACON. Yes; the performance of a governmental function.

Mr. CULBERSON. But the Government of the United States is one of limited powers. Those powers are supposed to be enumerated in the Constitution. It would be a legislative act to authorize the construction of a canal, and I simply made this inquiry in order to invite an expression of opinion from the Senator from Georgia and the Senator from Wisconsin as to what specific authority there is in the Constitution for the Government itself to build and construct a railroad or to construct a canal.

If the Senator will pardon me, in a sovereign State that power is the essence of sovereignty, and it may do anything which its own constitution does not prohibit. But the Government of the United States is one of limited and enumerated powers, and if you undertake to say the Government of the United States may do this or that, then the question is, Where is the authority for it found in the Constitution?

Mr. BACON. Where does the Senator from Texas get the power for the Government to spend millions and hundreds of millions in building works in rivers to improve navigation?

Mr. CULBERSON. I have simply sought to invite an expression of opinion of the Senators who have announced themselves on this particular question.

Mr. KNOX. Mr. President—

Mr. NELSON. Will the Senator from Georgia allow me to ask a question?

Mr. BACON. I must yield to one Senator at a time, and I now yield to the Senator from Pennsylvania. Then I will yield to the Senator from Minnesota.

Mr. KNOX. Thanking the Senator from Georgia for the courtesy, I should like to answer the question propounded to the Senator from Georgia by the Senator from Texas.

Mr. BACON. If I may do so, without the act being misconstrued, I will sit down while the Senator speaks, because I shall be very glad to hear from the Senator from Pennsylvania not only briefly, but at length.

Mr. KNOX. It will be for only a moment.

Mr. BACON. I am not objecting at all.

Mr. KNOX. I should like to answer in the language of the Supreme Court in a recent case, decided in 1893, in view of the history of this class of legislation. I refer to the case of *Luxton v. North River Bridge Company*, 153 United States:

It can not at the present day be doubted that Congress, under the power to regulate commerce among the several States, as well as to provide for postal accommodations and military exigencies, had authority to pass these laws.

This is speaking now of the law granting a charter for a bridge to be constructed across the Hudson River between New Jersey and New York.

The power to construct or to authorize individuals or corporations to construct national highways and bridges from State to State is essen-

tial to the complete control and regulation of interstate commerce. Without authority in Congress to establish and maintain such highways and bridges it would be without authority to regulate one of the most important adjuncts of commerce. This power in former times was exerted to a very limited extent, the Cumberland, or National, road being the most notable instance.

The court goes on further, but I picked that out as being concrete.

Mr. BACON. I have that case before me.

Mr. NELSON and Mr. PATTERSON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. BACON. I yield.

Mr. NELSON. I desire to ask the Senator from Texas under what constitutional power he justifies the right of the Government to appropriate money for the construction of a canal at Port Arthur, wholly within the State of Texas, and also to appropriate money for canalizing Buffalo Bayou? Under what paragraph of the Constitution does he find warrant and authority for those appropriations for works wholly within the State of Texas?

Mr. CULBERSON. Mr. President—

Mr. BACON. I promised to yield next to the Senator from Colorado.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Texas to answer the Senator from Minnesota?

Mr. BACON. Certainly.

Mr. CULBERSON. Acting upon the courtesy of the Senator from Georgia, I will say to the Senator from Minnesota that he takes the question I put to the Senator from Georgia and the Senator from Wisconsin rather too seriously. I expressed no dissent to that proposition myself, expressly stating that I would reserve my opinion. But I wanted to hear from those gentlemen.

Now, in the speech I made on the rate bill I stated that whether the power to regulate included the power to construct, and whether the Government of the United States, being one of limited and enumerated powers, could construct and operate railroads the same as a government of general sovereignty rather than of limited sovereignty could do, was a question unnecessary to be determined. I am disposed to believe that if the Government of the United States can construct and operate railroads and canals at all, it must be rested upon the authority to regulate interstate commerce.

Mr. PATTERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Colorado?

Mr. BACON. I do.

Mr. PATTERSON. The Senator from Pennsylvania [Mr. Knox] read a decision by the Supreme Court of the United States, which was based, I believe, upon an act of Congress authorizing the construction of a bridge over a navigable stream between two States, and he read the language of the decision to the effect that Congress had not only power to grant such authority to others, but the power to construct such works. Does the Senator from Pennsylvania conclude from that decision that the right and power exist in the Government to construct, own, and operate railways, as well as the works used by other common carriers, extending through several States?

Mr. KNOX. If I may be permitted in the time of the Senator from Georgia—

Mr. BACON. Certainly.

Mr. KNOX. I will say that the language I read, while it is found in the report of the case in which the question was raised as to the validity of legislation authorizing the construction of the North River Bridge, was taken from the opinion of Mr. Justice Bradley in *California v. The Pacific Railroad*. So the court itself answers the question propounded by the Senator from Colorado, which is, Can the United States authorize the construction of a railroad? Speaking of the validity of that act, which did authorize the construction of a railroad, the court says:

The power to construct, or to authorize individuals or corporations to construct, national highways and bridges from State to State is essential to the complete control and regulation of interstate commerce.

It cites a notable case, with which we are all familiar, I especially so, having been born on the line of the road, that of the Cumberland, or National, road, which was constructed by Congress, running from this city, and which was intended to go to Cincinnati, but at Indianapolis was overtaken by the development of the railroads.

Mr. PATTERSON. The Senator has not given us his view. He reiterates the views of the Supreme Court of the United States in connection with that act of Congress, and then refers to the construction of the National road.

Mr. KNOX. It is from—

Mr. PATTERSON. Let me ask the Senator categorically whether it is his opinion, based upon the decisions of the Supreme Court of the United States, and the interstate-commerce clause of the Constitution, that the Government may construct and own and operate railroads throughout the United States?

Mr. KNOX. My opinion of the powers of the Federal Government under the Constitution is based upon the opinions of the Supreme Court, and I have not the slightest doubt that the Supreme Court decided that question in the way I read. If that is not a satisfactory answer, and if it were a question of individual opinion, which of course must be based upon the opinions of the court, I have not the slightest doubt about it.

Mr. PATTERSON. That it has the power?

Mr. KNOX. It has.

Mr. BACON. Mr. President, this is a most interesting question, and one of the class which I wish our lawmakers were more in the habit of considering—these limitations. I have no question, I repeat—I have said it several times—that this act would be declared constitutional under the decisions of the Supreme Court, broadly announcing the doctrine as those decisions have, that any charter enacted by Congress in which there should be a recitation of the purpose to facilitate interstate commerce would be declared by the court to be constitutional. I repeat, however, that that is not the rule by which we are to be guided in the enactment of a charter, unless we are prepared to say that we will in practice follow the rule and charter all corporations which are to engage in interstate commerce and which may so claim and apply to us to be so chartered.

I suppose no one will dispute the fact that if we were to do so, there would be an immense revolution in the business of this country and in the relation of the States to that business and the corresponding relation of the General Government to that business. I am going to have a little more to say about that somewhat later, and I simply pass that point now for the purpose of emphasizing the proposition that in determining whether a charter shall be granted it is not simply the question whether or not an act incorporating a company will be decided by the courts to be constitutional, unless we are prepared to go to the extent of saying that we are ready to charter all corporations which are going to be engaged in interstate commerce, because all of them would be held by the Supreme Court to be constitutional.

But while they would be so held to be constitutional, would it be consistent with our duty to go to that extent and charter all corporations engaged in interstate commerce in the United States, or should we in the exercise of our duty and our high constitutional obligation follow the suggestion of Mr. Webster, which I have twice quoted—I am applying what he said substantially in the matter of what ought to be our duty—that we should, in determining whether or not a certain charter should be granted, be guided by the great rule, is it necessary for the performance of a governmental function, which function can not be as well performed by a charter granted by a State? In every case where that function can not be as well performed by a corporation chartered by a State, then there is the strongest reason why we should exercise the power.

Mr. President, I am going to pass from that point immediately, because I propose to return to it a little later, when I shall make a little more practical illustration of the view which I take of our duty in regard to that matter. In regard to this particular charter, I say it will not be a corporation which will be discharging any great governmental function which could not be equally well discharged by a corporation chartered by the States of Pennsylvania and Ohio. I say the purpose of the canal is not the performance of a great governmental function. The simple fact that great interstate commerce will pass over it will not bring it within that category, unless we are prepared to go further and say that all carriers over which interstate commerce passes are performing a governmental function, and that an equal obligation rests upon us to give a Federal charter to every great railroad or steamboat or steamship company engaged in interstate commerce over which great interstate commerce is to flow.

In the second place, I say conceding all that is said by the learned Senators from Pennsylvania, who have both addressed the Senate on this subject, as to the vast importance of the construction of this work and the great benefits which will flow therefrom and the great evil which will result from the failure to construct the canal, our refusal to grant this charter will not prevent the construction of the canal, and that immediately.

I hold in my hand a pamphlet which has been laid on the desk of every Senator, in regard to this enterprise. I suppose the fact of the authenticity of every statement in it can be

accepted by us from the fact that the pamphlet comes from those who are interested in the procurement of the charter. Each Senator, if he has not disposed of it, has a copy of this pamphlet upon his desk, and on page 29 he will find the fact stated that the authority to build this canal has already been given by the States of Pennsylvania and Ohio. This pamphlet professes to be the proceedings had at a meeting in Pittsburgh on November 29, 1904, in which there were addresses delivered by several eminent men, among them Mr. DALZELL, at present a Member of the House of Representatives, and Mr. John E. Shaw, who I take, from the allusions made to him and from the speech itself, to be a prominent citizen of Pittsburgh, one fully authorized to speak with regard to that enterprise, because he seems to have been one of the most active men in its advocacy and proposed prosecution.

First I will read from page 24 of this pamphlet, where, under the subhead "History of the ship-canal project," he says:

In 1889 the legislature of Pennsylvania appointed a commission to inquire into the practicability of such a waterway, and appropriated \$10,000 for their use.

I will not read further from that part now. I will turn to that later, and I will now resume where I first proposed to read, from page 29, under the subhead "Canal can be built at once." In his speech Mr. Shaw stated this at that meeting:

The provisional committee, after their exhaustive examination of the matter, and realizing what a tremendous bulwark it would be in both maintaining and protecting Pittsburgh's commerce and trade, and her mining and manufacturing industries, proceeded a step further to clear the decks, so that the canal could become a reality.

I hope every Senator will listen to what I am going to read, and I wish every Senator who is going to vote on this question were in his seat to hear it:

The route adopted as being the most economical in construction, and serving the largest commercial interests, lies about one-half in Pennsylvania and one-half in Ohio.

The committee procured a general law to be enacted in Pennsylvania, authorizing a ship canal company to be organized to construct and operate a ship canal from the headwaters of the Ohio River via the Beaver and Mahoning rivers to the Ohio State line.

A similar law was passed in the Ohio legislature authorizing a ship canal company to construct and operate a ship canal from Ashtabula on Lake Erie to the Pennsylvania State line on the Mahoning River, and authority was given in both States to consolidate their franchises at the State line and operate a through canal from the Ohio River to Lake Erie by one company.

Now, there is not only the separate authority given by the State of Pennsylvania and by the State of Ohio for the construction of this canal within the limits of the particular State. Here is a reciprocal piece of legislation by the two States, that they may meet at the State line and consolidate as one company to construct and operate this canal.

Mr. KNOX. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Pennsylvania?

Mr. BACON. Certainly.

Mr. KNOX. It is very obvious that there has been no attempt to conceal that fact. Otherwise the pamphlets would not have been laid on the desks.

Mr. BACON. No; of course there is no intention to suggest any such purpose to conceal—

Mr. KNOX. I wish the Senator would read the next paragraph. It indicates why they ought to have a national charter.

Mr. BACON. I have no doubt reasons can be suggested.

Mr. KNOX. There is no dispute about that.

Mr. BACON. I am speaking of the fact that, so far as the prosecution of this work is concerned, they have every authority and power now to proceed with its construction, and that a failure on the part of Congress to charter it will not interfere with the construction of the work. It goes on upon the next page—I will read it if the Senator desires I should in this connection:

The committee went a step further, realizing that this canal was but a short connecting link between the waterway systems of the Great Lakes and the Ohio and Mississippi rivers under the control of the Federal Government, which would sooner or later be taken over by the Government and made a part of the Federal waterway system, even if primarily built by a private corporation, introduced a bill in Congress asking for power under a national charter to a corporation to build this canal.

That was an assumption, of course, as to the fact that the Government of the United States will ultimately take it over. I presume none of us will admit that as being correct. I suppose I could state it as a fact, for I understand it to be the fact, that when this proposition was first presented in the other House it failed of passage in a previous Congress. But I am simply now discussing the question whether or not the granting of the charter is essential to the prosecution of this work, even if we concede all that is said as to its great importance and its essential character. Evidently it is not. There could not be a more complete piece of legislation on the part of two States

to authorize the construction and operation and maintenance of the canal than there already has been both by the State of Pennsylvania and the State of Ohio.

Mr. President, I want to ask the attention of the Senators present to a consideration of what are the evil consequences which are to flow from the doing of this unnecessary thing in the granting of this charter. In the first place, I called attention on a previous occasion to the fact that when a charter is granted by the Federal Government the States have no power to tax the franchise. The taxing of a franchise I believe is of modern development, but franchises have come to be recognized as a very important part of the taxable property of the corporation. When the Federal Government exercises its power and goes into a State and charters a company, even though under the law all the visible property of that company is subject to taxation, the franchise, an important part of the taxable property of that corporation when created by the United States, ceases to be taxable by the State. While of course we all recognize the truth of that proposition, I want to read what the Supreme Court of the United States said in a case in 127 United States, *California v. Pacific Railroad Company*, where the question before the court was whether or not a State had the right to tax the franchise of a corporation which had been created under a charter granted by the Federal Government. The court says this:

Taxation is a burden, and may be laid so heavily as to destroy the thing taxed or render it valueless. As Chief Justice Marshall said in *McCulloch v. Maryland*, "the power to tax involves the power to destroy." Recollecting the fundamental principle that the Constitution, laws, and treaties of the United States are the supreme law of the land, it seems to us almost absurd to contend that a power given to a person or corporation by the United States may be subjected to taxation by a State. The power conferred emanates from, and is a portion of, the power of the government that confers it. To tax it is not only derogatory to the dignity, but subversive of the powers of the government and repugnant to its paramount sovereignty. It is unnecessary to cite cases on this subject. The principles laid down by the court in *McCulloch v. Maryland*, 4 Wheat., 316; *Osborn v. The Bank of the United States*, 9 Wheat., 738, and *Brown v. Maryland*, 12 Wheat., 419; and in numerous cases since which have followed in their lead, abundantly sustain the views we have expressed.

Mr. President, it may be a small matter that in one particular instance the United States Government will charter a corporation in a State and thus deprive the State of a very valuable part of what should constitute the taxable property of a State, but if we are to have this as a precedent and to go further and charter all corporations engaged in interstate commerce, it can be seen at once what an immense influence it must have upon the revenues derived from taxation in a State.

Mr. PATTERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Colorado?

Mr. BACON. I do, with pleasure.

Mr. PATTERSON. Should the act creating the corporation expressly grant to the State the right to tax the franchises of such a corporation within the State, might not then the franchises be taxed by the several Commonwealths?

Mr. BACON. In the case I have just quoted, I will say in answer to the inquiry of the learned Senator from Colorado, the court indirectly recognized that power. But the language used by the court shows how inconsistent they consider it with the dignity and power of the United States Government to delegate any such power to a State.

I will read—

Mr. NELSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. BACON. If the Senator will pardon me just a moment until I finish the reply to the Senator, I will yield to him with pleasure. The Senator will recall that in the paragraph which I just read from this decision these words occur:

Taxation is a burden, and may be laid so heavily as to destroy the thing taxed or render it valueless. As Chief Justice Marshall said in *McCulloch v. Maryland*, "the power to tax involves the power to destroy." Recollecting the fundamental principle that the Constitution, laws, and treaties of the United States are the supreme law of the land, it seems to us almost absurd to contend that a power given to a person or corporation by the United States may be subjected to taxation by a State. The power conferred emanates from and is a portion of the power of the Government that confers it. To tax it is not only derogatory to the dignity, but subversive of the powers of the Government and repugnant to its paramount sovereignty.

Mr. NELSON. Mr. President—

Mr. BACON. So, if the Senator from Minnesota will pardon me a minute, even if the right does exist and if Congress should confer the right, it would be in conflict with what the Supreme Court designates as the "dignity" and "prerogative" and "sovereignty" of the Government; and even if, for the purpose of avoiding what they concede to be a hardship, Congress should incorporate that in a measure, these great corporations, which in the aggregate, all over the United States, would make an

irresistible force, would have it in their power to come to Congress and get relief from this burden by securing amendments taking away any power granted to the States to tax these franchises.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. BACON. I will yield. I said to the Senator I would yield to him.

Mr. NELSON. I wish to say to the Senator from Georgia that that is precisely what we have done in the case of the national banks. We allowed them to be taxed.

Mr. BACON. Undoubtedly.

Mr. NELSON. That does not, as far as I know, derogate from the authority of the United States in any degree.

Mr. BACON. That is true, and we have gone further in the matter of national banks. We have also made them subject to the jurisdiction of local courts. But nevertheless the proposition is as I have stated it. The matter of banks, Mr. President, is different. The banking business of the country is of a different kind from the business of common carriers or from any other industrial enterprise. I will not stop to turn aside to illustrate what those differences may be.

Now, Mr. President, another result which flows from Congress going into the States and chartering their business enterprises is that it takes away from the jurisdiction of the State courts a settlement of the controversies between the people of those States and these corporations thus chartered and confers it all upon the courts of the General Government. It is a very grave question to my mind whether, under the constitutional provision which gives to the Federal courts the jurisdiction between certain citizens in cases arising under the laws of the United States, Congress can by any enactment take that jurisdiction away from the Federal courts in the case of a company chartered by Federal law and confer it exclusively upon the courts of the State.

Mr. KNOX. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Pennsylvania?

Mr. BACON. I do.

Mr. KNOX. The Senator from Georgia must surely know that that is exactly what Congress has done in respect to national banks.

Mr. BACON. I have just stated the fact that jurisdiction in such cases has been conferred on the State courts. The Senator was not listening.

Mr. KNOX. No; the Senator answered the question of the Senator from Minnesota on the question of jurisdiction.

Mr. BACON. I added, in response to the Senator from Minnesota, that the law had gone further and conferred jurisdiction upon local courts in regard to controversies involving United States banks.

Mr. KNOX. Then I think the Senator has answered his own doubt.

Mr. BACON. No; not necessarily. I have doubts very frequently, and I have no doubt the learned and distinguished Senator has, as to the correctness of legal propositions, even where they have been decided by the courts. I do not think I am misstating any fact in that case.

Mr. NELSON. I wish to call the attention of the Senator, if he will allow me, in connection with the point he last made, to the fact that in the judiciary act conferring jurisdiction on the circuit and district courts of the United States, the very language of the act is that those courts shall have concurrent jurisdiction with the courts of the several States, and under the bankruptcy act jurisdiction is left with the State courts.

Mr. BACON. Yes; that is true. I do not dispute that.

Mr. NELSON. That is the case under the Federal bankruptcy law. So there can be no difficulty in dividing the jurisdiction.

Mr. BACON. I am very much obliged to the learned Senator for calling my attention to facts as to these matters that of course we need to be reminded of, but which, I presume, every Senator present is fully aware of. That does not change the proposition that to my mind there is a doubt as to the correct construction of that section of the Constitution which gives jurisdiction to the courts of the United States in cases arising under the laws of the United States, as to whether or not the jurisdiction of the United States court can in any case be denied to one who has the right to claim it.

I do not mean to say, Mr. President, that the Congress can not give the right to a concurrent jurisdiction to one who claims anything under the laws of the United States, who may desire to go into the State court. The question upon which I have doubt is whether, where a case arises under the laws of the United States, one who claims a right to go into a Federal

court can be denied it by reason of the fact that concurrent jurisdiction is given to a State court.

I wish the Senator from Pennsylvania or the Senator from Minnesota would show where the Supreme Court of the United States has ever decided that in such a case, where concurrent jurisdiction is thus given, it was not within the power of the party to claim his right under this constitutional provision, under the exercise of a right which had not been denied, when he asserted his right to be heard in a Federal court. If there is such a case let either of the Senators point it out.

Mr. NELSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. BACON. I do.

Mr. NELSON. Whenever a Federal question arises the statute provides for a transfer to the Federal courts, and even where a case is litigated in the State court when it finally reaches the supreme court of the State, if there is a Federal question involved it can be taken up to the Supreme Court of the United States.

Mr. BACON. I had previously been well aware of the fact.

Mr. NELSON. It does not cut off the State courts from litigation. The matter can be reviewed in the Supreme Court of the United States, but in the first instance the State courts, the nisi prius court, and the supreme courts of the State have jurisdiction and try the case—

Mr. BACON. That is not the question.

Mr. NELSON. And the case goes up to the Supreme Court of the United States not because the lower courts have not had jurisdiction, but because there is a Federal question involved.

Mr. BACON. Well, Mr. President, I think we all must know that fact. We are all fully familiar with that rule of law. But that has nothing whatever to do with the proposition I am discussing.

Mr. NELSON. That law works in all other commercial and business transactions of the United States. Why can we not apply that same law and that same principle to the matter of the construction and operation of this canal?

Mr. BACON. Well, Mr. President, the Senator is not on the point I am on at all, or else I clearly misunderstand him. The proposition which I make is one upon which I challenge the Senator from Pennsylvania, or the Senator from Minnesota either, to furnish a decision. If there be such a decision, then I bow to it, of course. It is this: In a case arising under the laws of the United States (which in the removal cases the Federal court says involves all cases arising under a charter granted by the Federal Government), where concurrent jurisdiction is vested by law both in the Federal and in the State courts, and where a party interested in a case arising under those laws claims a right and seeks to exercise the right to have his case tried in the Federal court, where has the Supreme Court of the United States ever held that he should be denied that right, and that the case must be brought in the State court because concurrent jurisdiction has been given by Congress to the State courts?

Mr. KNOX. Mr. President—

Mr. NELSON. That is not denied. Is there anything in this bill which denies that right?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Pennsylvania?

Mr. BACON. I do.

Mr. KNOX. If the Senator from Georgia had not twice addressed me as the Senator from Pennsylvania and challenged me to produce an authority, I should not have interrupted him. But as I have not contended that there is any such decision I am not at all interested in searching the authorities to see whether I can find one.

Mr. BACON. I beg the Senator's pardon. Possibly I was a little too abrupt in my address to him. There was nothing certainly further from my mind than by word or manner to say or do anything in the least degree offensive, and if I was guilty of it, it was certainly without the slightest consciousness on my part. I judge from the Senator's reply that he did so consider it; and I beg of him to think otherwise, because there was nothing further from my intention.

Mr. KNOX. If I may be permitted, I will say I had not the slightest feeling about it, but it seemed to be so direct as to what the Senator regarded as authority upon that subject that, not recognizing the relevancy of the proposition to the bill before the Senate, I did not think it worth while to bother about it.

Mr. BACON. The relevancy, if the Senator will pardon me, is just this: I was speaking of one of the great evils which would result from the Federal Government entering upon the domain of granting charters to industrial enterprises of various kinds engaged in interstate commerce in the States; that as

a consequence the State courts would be deprived of their jurisdiction.

Mr. KNOX. Mr. President—

Mr. BACON. If the Senator will pardon me just a moment, I will then yield to him with pleasure. I have not finished the statement of the proposition. It had been suggested and stated both by the Senator from Pennsylvania and myself that to avoid an evil of that character in the case of the national banks concurrent jurisdiction had been given by the Federal statute in the State courts and in the Federal courts; and the Senator from Minnesota had gone further and instanced other classes of cases where there had been such concurrent jurisdiction granted by the Federal statute. My reply to that had been that it did not necessarily restore the exclusive jurisdiction to the State courts, for the reason that if the controversy arises under the laws of the United States, as every controversy will arise in a case where there has been a Federal charter, the party had his right under the Constitution to the jurisdiction of the Federal courts; and that even if the right of concurrent jurisdiction were admitted there could not be any denial to him of the Federal jurisdiction if he claimed it and insisted upon it. Thereupon it was that, possibly with too much earnestness, I suggested that if I were in error the Senator from Pennsylvania or the Senator from Minnesota would be able to produce an authority to the contrary. That I think, Mr. President, shows that it was extremely relevant to the question involved.

Mr. CULBERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Texas?

Mr. BACON. Certainly.

Mr. CULBERSON. I hope the Senator will pardon me, Mr. President. I have not heard all the discussion on this immediate point, and probably what I am going to say is not altogether relevant, but I concluded to call the attention of the Senator from Georgia to it anyway. The fact to which I refer is that the Supreme Court of the United States in what are known as "the Texas and Pacific Railway cases" has decided that by reason of the charter of that company alone by Congress it has the right to remove all its cases to the Federal courts for trial.

Mr. BACON. The Senator is quite correct. I had referred to them generally as the removal cases. I had not given the name of the cases.

Mr. CULBERSON. The Texas and Pacific Railway cases.

Mr. BACON. Yes; I know the cases. In two volumes, 111 and 115, if I correctly remember the numbers of the volumes, what are known as the removal cases are found. I had stated the proposition; but I am obliged to the Senator for again calling attention to it.

Now, Mr. President, I am, of course, occupying very much more time than I had any anticipation of doing. I have called attention to the fact that in the granting of a Federal charter for any carrier engaged in interstate commerce in a State, the right to tax the franchise by the State is taken away, and next that the right to the enjoyment of the trial of cases in State courts is practically denied where a party claims his right to trial in the Federal courts, even where concurrent jurisdiction is conferred by the law upon the State courts.

Another most grievous evil, to my mind, is the entering by the Federal Government in a wholesale way upon the exercise in States of the right of eminent domain. If the time shall come when the Federal Government, acting upon what we recognize as the doctrine laid down by the Supreme Court of the United States, proceeds to charter all those enterprises engaged in interstate commerce, then we have not here and there in isolated instances the exercise of the power of eminent domain by the Federal Government, but in a widespread system, reaching every nook and corner of a State where railroads penetrate, we have the Federal Government entering upon the exercise of this great fundamental and highest of all prerogatives, which takes a citizen's property without his consent.

Mr. NELSON. Will the Senator yield to me a minute?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. BACON. I do.

Mr. NELSON. I want to call the attention of the Senator from Georgia, in connection with what he has just stated, that he is in error. Under sections 11 and 12 of this bill the right of eminent domain by this canal company is to be exercised under the laws of the respective States, so far as it concerns the State of Ohio, under the laws of that State, and so far as it relates to the State of Pennsylvania, under the laws of that State. So we do not withhold the exercise of the right of eminent domain from the States in any measure whatsoever.

Mr. BACON. I am very much obliged to the learned Senator. I am not discussing this particular charter in this par-

ticular connection, but even if I were, it would none the less be the exercise of eminent domain by the governmental power and authority of the United States. Even though you adopt the machinery prescribed by the State, it is none the less the going into the State by the Federal Government and reaching every remote corner of it in the exercise of the right of eminent domain. I am not speaking as to this particular case alone or limiting it to this case, but what will be the result if we enter upon this general policy of going into a State and reaching every corner of it in the exercise of the right of eminent domain by the United States Government.

Now, in this particular case, Mr. President, coming to that, it is true, I repeat, as stated by the Senator, reading from the particular section of this proposed charter, that it is prescribed that the exercise of this right shall be according to the law of each of these States. But it is none the less the exercise of the power by the Federal Government.

I am sorry that many Senators who are to vote upon this question, and some of whom are directly interested in this matter, are not here to hear it discussed. I want to call attention to the wide, far-reaching provisions of this bill under which the right of eminent domain by the authority of the United States is to be exercised, not simply in the two States that the Senator speaks of, but also in the State of New York, because a part of the territory covered by this charter in subjecting water courses, etc., is in the State of New York, although it is not named.

I wish to read some of the powers here. I read from page 8, section 11:

SEC. 11. That the said company, in the exercise of its right of eminent domain as granted in section 2 of this act, may, at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed, enter upon and take such lands as are necessary and proper for the making, maintaining, and operating of the canals, feeders, and other works of the company hereby authorized, and it shall have the authority, at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed, to alter any and all highways, waterways, railroads, and other works, either public or private, necessary for the making, maintaining, and operating of the canals, feeders, and other works of the company.

Now, Mr. President, while that is to be done in accordance with the machinery of the States, the power and authority are the power and authority of the United States.

But there is another feature of the exercise of eminent domain in this bill which is a very much more serious one than that, and that feature is found in the twelfth section, which authorizes this corporation to control all the waters of certain streams, with certain exceptions mentioned, and which I will read, of every kind in three States—Ohio, Pennsylvania, and New York—which, while I can not, of course, state with accuracy, I judge by such an examination as I am able to give it upon the map will certainly cover an area of between 10,000 and 20,000 square miles.

Mr. KNOX. Mr. President—

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Georgia yield to the Senator from Pennsylvania?

Mr. BACON. I do.

Mr. KNOX. I know the Senator wants to be accurate, and therefore I call his attention to the fact that it does not permit the control of all the waters of the Allegheny River above Franklin, but only the flood waters.

Mr. BACON. I am coming to that.

Mr. KNOX. The Senator stated that section 12 provided for the whole control of the waters. I only want to call attention to the fact—

Mr. BACON. I said with certain exceptions, which I would name the Senator.

Mr. KNOX. That is not an exception.

Mr. BACON. Well, limitations, then. I was careful to guard my language, but was possibly not accurate in its use. When I said "exceptions" I had that particular thing in my mind, and I think that possibly the language might be sufficient for the general purpose. When I used the word "exceptions" I meant that it was not unlimited, and that I would call attention to its particular features. Now I am going to read that section, Mr. President.

SEC. 12. That the said company in the exercise of its right of eminent domain as granted in section 2 of this act may, subject to the rights of the States, respectively, through which said canals shall pass, or any of the municipalities thereof affected thereby, to regulate and control the same, obtain, take, and use for the construction and operation of the said canals, feeders, and other works from the rivers, lakes, brooks, streams, water courses, ponds, reservoirs, and other sources of water supply sufficient water for the purpose of constructing, maintaining, operating, and using the said canals, feeders, and other works hereby authorized.

That certainly is without limitation.

Mr. NELSON. Mr. President, I ask the Senator to read the proviso of it.

Mr. BACON. I am certainly going to read it all. The Senator need not doubt that. I simply pause at that point, Mr. President, for the purpose of saying that where the semicolon occurs in line 19, up to that point there is no limitation or exception.

From the rivers, lakes, brooks, streams, water courses, ponds, reservoirs, and other sources of water supply sufficient water for the purpose of constructing, maintaining, operating, and using the said canals, feeders, and other works hereby authorized.

There is no exception, no limitation; and I repeat, Mr. President, that, so far as I can judge by simply inspecting the map, there is an area of territory between ten and twenty thousand square miles upon which there is this absolutely unlimited power to take and use, and, as will be seen in the succeeding portion of the section, which I shall read, there carries with it the power to divert and to impound; and there is not a spring or a brook or a rivulet or a stream or a reservoir or a pond in all that vast area but what, with the great power of the United States behind it, this corporation can go into it and take for its own use, of course paying for it. But who can pay for the damage done to a neighborhood in drying up a stream, in the impounding of its waters, and the consequent drying up of the bed below? Who can pay, what money can pay, in a vast territory such as this, for the absolute sequestration and condemnation of all the water of every kind and from every source upon which the health and the comfort and the pleasure of a great people are so dependent? And yet there is no limitation to it.

Mr. President, it is bad enough for the State to grant such a power, but it is infinitely worse for the Federal Government to do it. When a State grants such power, if the people are troubled by it, there is very little difficulty in their going to the legislature and having it corrected; but who can estimate the difficulty which would attend the people who have this great, to say the least of it, inconvenience and trouble brought upon them, when they come to Congress to contend with the influences of a corporation with power to organize with a capital of \$200,000,000, as is given in this charter? Who can estimate their difficulty when they are to come here and ask that Congress shall restore to them their springs, their brooks, their rivulets, their streams, their ponds, their reservoirs? Let Congress do that if it will, but it shall go down in the record of this day's proceedings that there was at least one man in the Senate of the United States to protest against it. Then it goes on—

Mr. NELSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. BACON. Certainly.

Mr. NELSON. I desire to call the Senator's attention—I do not think he states the question fairly—

Mr. BACON. I have read the quotation accurately.

Mr. NELSON. All this must be done, the Senator will find if he will read the first part of section 12, "subject to the rights of the States, respectively, through which said canals shall pass, or any of the municipalities thereof affected thereby, to regulate and control the same."

Mr. BACON. Well, I have read that.

Mr. NELSON. All that of which the Senator from Georgia complains must be done subject to the laws of the States; and he has entirely overlooked the proviso at the end of the section.

Mr. BACON. I have not got to that yet. I have said to the Senator that I was going to read it. I have already read the particular words which he now quotes.

But, Mr. President, what does it mean when Congress passes a law giving certain rights and powers under that law when you say it shall be subject to the regulation and control of the States? Does it mean that the State can pass a law and negative this law? Would any man contend for a moment that any law of a State could nullify any single provision of this charter? Absolutely not. It would simply be a question, Mr. President, whether or not, when the Federal court comes to decide it, that this law, with all these powers, is being exercised in accordance with the rights of the States. Can it be said that where Congress empowers a company to take a stream and to impound it, or to take all the water from all the streams or all the reservoirs in a State and impound them, that any State should pass a law and say they should not do it; that the power granted by Congress would be negated? No man will contend that for a moment. We give the express power to do these particular things, and we give them without reservation. The power given to the State "to regulate and control" does not carry with it the slightest power to negative and destroy the powers given to take, divert, impound, and use these waters. It only gives the power to the State to regulate and control the

manner of taking, but in no particular to prohibit or in the slightest degree to limit the taking.

Mr. President, to continue with the reading where I left off, without the omission of any words, I am going to read it clear through, including the proviso, which the Senator from Minnesota has twice called to my attention. In the enumeration of powers it goes on to say:

Control and regulate the flood waters of the Allegheny River above Franklin, Pa., and the Beaver, Mahoning, Grand, Ashtabula, Shenango, and Little Shenango rivers, and Sandy Creek, and the tributaries of said streams, by regulating dams, weirs, reservoirs, and impounding dams—

That is sufficient up to that point. That simply means, of course, Mr. President, that as to these great rivers the flood waters are to be impounded in the same way that the waters are to be impounded under the irrigation scheme, and as to that there is no particular objection; but that has no particular relation to it. That is divided by a semicolon, and it has no relation whatever to the power previously given, which authorizes this corporation to utilize, divert, impound, and take to themselves all the waters referred to in the first part of this section after the semicolon in the nineteenth line. That power, up to the word "dams" in the twenty-third line, refers to dealing with flood waters; but the words which I now read do not refer to flood waters. The section continues:

and divert, alter, or impound the waters of any river, lake, brook, stream, and the tributaries of said streams or water courses when the same is necessary to the making, maintaining, and operating of the said canals, feeders, and other works hereby authorized.

Mr. President, there could not be a broader grant to this great corporation to go into this wide extent of territory and absolutely sequester and take to itself all the waters outside of the particular rivers to which the Senator from Pennsylvania has called my attention, all waters of every kind whatsoever, and divert them and impound them and use them. There could not be a broader grant than is given in this section.

I am now going to read, as desired by the Senator from Minnesota, the proviso:

Provided, That nothing herein contained shall authorize said company to impair the navigability of any river or stream, or to diminish at any time the water supply of any city, village, or municipality below the normal minimum discharge cross-section area of any such river or stream, or in any manner to pollute the same.

Now, stop there. There is a protection of the water supply necessary for the navigation of a river, but that does not protect in the waters I am talking about. I am talking about the water to supply this vast population in parts of three States in between ten and twenty thousand square miles of territory. That relates simply to navigable rivers. It also relates to denying to them the right to "diminish at any time the water supply of any city, village, or municipality." That is the sole restriction. So far as the farmer is concerned and so far as the general mass of the people throughout this vast territory are concerned, who are dependent upon their springs and their streams and their rivulets and their brooks and their creeks for health and even life, there is absolutely no restriction. If the Senate is ready to pass a bill with such a provision in it, I repeat it shall not be said that it was passed without objection.

There is another proviso to the same section which reads:

Provided, That no feeders to supply water shall be connected with or draw water from the Niagara River above the Niagara Falls.

That is the entire section, and I repeat that it is an impossibility for any legitimate construction of that section to get away from the proposition that, outside of these large rivers, where the use of water is limited to the flood waters, outside of the use of water which would impair the navigability of a stream, and outside of the use of the water necessary for the purposes of any city, village, or municipality, there is absolutely no limit upon the right of this corporation to entirely take and use all the water which may be found in that country.

Mr. President, if anyone will look at that map, which was put here for the purpose of illustrating the necessity for this great work, he will see that from the character of the streams there, unless the water is to be gotten out of Lake Erie, all the water that is found in these little streams will be necessary to supply this great canal with a depth of 15 feet of water and a width of 167 feet at the bottom. The dimensions are stated in this pamphlet. It is to be a tremendous canal, and amounts really to a great river.

Mr. PENROSE. It will be 12 feet deep, I will say to the Senator.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Pennsylvania?

Mr. BACON. I do.

Mr. PENROSE. Little or no water will come out of Lake Erie.

Mr. BACON. I am coming to that point a little later on. I

am speaking now of the question as to whether or not, when the right is given to take all the water of every spring, rivulet, brook, and stream of every kind, it is an idle grant, or whether it is a grant which, if this canal is to be built and operated, must necessitate the use of these waters to the absolute destruction of the use of them by the people.

One other point, Mr. President. We have passed through the Senate "a bill for the control and regulation of the waters of Niagara River, for the preservation of Niagara Falls, and for other purposes." It has also passed the House of Representatives, and is now in conference, as I understand, upon some amendment. That bill is most carefully drawn and is most stringent in its provisions. The necessity for it grows out of the fact that on both sides of the Niagara River the utilization of the water, which would otherwise go over the falls, is so great for manufacturing purposes and objects of a kindred nature that the destruction of that great attractive feature of our country is imminent. Therefore, we have passed that bill, in which we have most carefully stipulated by accurate terms the limit of the amount of water which would otherwise flow over the falls at Niagara. That limitation, Mr. President, is not confined to the Niagara River itself, but it is extended to the Great Lakes, which supply the water which flows over the falls at Niagara.

We have put certain matters within the control and discretion of the Secretary of War, such as that there shall not be anything taken in the way of water for this purpose out of the Niagara River or tributary lakes except by his consent. But not content with prohibiting the use of any water without the consent of the Secretary of War, we limit his discretion in this bill which the Senate has passed.

After stating that with the approval of the Secretary of War so many horsepower, etc., may be used of the water of Niagara River, we put in this proviso:

Provided always—

This is on page 3, if the Senator has the bill before him—

Provided always, That the provisions herein permitting diversions and fixing the aggregate horsepower herein permitted to be transmitted into the United States, as aforesaid, are intended as a limitation on the authority of the Secretary of War.

In other words, we give him the discretion within certain limits, and beyond those limits there is no discretion to be vested in him. He can not authorize the use of any water beyond the limitation.

The senior Senator from Massachusetts [Mr. LODGE] before he left here two days ago gave notice of an amendment which he stated the Senator from Wisconsin [Mr. SPOONER], in his absence, would move for him, and which uses this language:

Provided, That no water shall be drawn from above Niagara Falls unless approved and allowed by the Secretary of War.

Mr. President, that amendment is not sufficient if we are to adhere to the policy which we affirmed when we passed the bill from which I have just read. It is not sufficient to say that the Secretary of War shall approve the use of any of this water. If we are to adhere to the policy which we have adopted, it is necessary to go further and say that no water shall be taken from Lake Erie for this purpose which, in the aggregate, with other waters taken, shall exceed the amount specified in that bill. That bill has not yet become a law, and therefore it is impracticable for me to allude to it or to cite it as a law which imposes a limitation; but I shall ask the Senate to adopt this amendment to the amendment of the Senator from Massachusetts. In the first place, after the word "Falls," in the second line of his amendment, I would ask that there be inserted the words "either from Niagara River or its tributaries;" so that the amendment as amended would read:

Provided, That no water shall be withdrawn from above Niagara Falls, either from Niagara River or its tributaries, unless approved and allowed by the Secretary of War.

That language, "Niagara River or its tributaries," is found substantially in the bill which we have passed. Then I shall ask that there be added to the amendment these words:

And provided, That no greater amount of water shall be diverted from Niagara River or its tributaries above Niagara Falls than shall be specified in any general law of the United States limiting the same.

Mr. President, I want to call the attention of the Senate to the fact that it is perfectly practical, if I understand the matter aright, to use an amount of water in the operation of this canal which would utterly destroy the Niagara Falls. It is true that what is known as the "divide" on the immediate line of the canal is some distance from Lake Erie, and if that could only be surmounted by a series of locks of course the water which flows from the lake into that part of the canal would be arrested when it reached this high ground, and there could be no great flow of water from the lake on that account;

but the important fact is this—and I ask the attention of the Senator from Wisconsin to this fact, because he has been especially charged by the Senator from Massachusetts with the care of his amendment—that, according to the map which has been brought here for our information, that divide is some distance from Lake Erie on the immediate line of this canal; but when we go northeast, into the State of New York, it will be found that the divide runs practically up to the lake—certainly it is within a very short distance of the lake shore—and that it is perfectly practicable by what is known as a "feeder" to construct a canal northeast of the mouth of this proposed canal, which, leading from Lake Erie, shall go on the east side of this divide and conduct water to this canal upon the southern side of the divide and furnish it with an unlimited water supply from Lake Erie.

Mr. President, Senators may differ as to whether or not the Falls of Niagara are to be preserved; but the Senate at least has given its approval to the proposition that, so far as legislation can effect it, they are to be preserved. It does seem to me, therefore, that it would be the veriest contradiction of our former action for us to give a charter to a company which would have the power, under the conditions which I have named, to take from the Niagara Falls by drawing away from Lake Erie an amount of water which would practically destroy those falls.

As an illustration, Mr. President, of the importance of limiting this by law, and not leaving it to the discretion of the Secretary of War or any other one man, I will state that in a discussion of this question with a prominent Senator, who is not only fit to be Secretary of War but eminently fit to be President of the United States, if he should be chosen for that position, he said to me that he regarded the construction of the canal as of very much more importance than the preservation of Niagara Falls. So that if he should happen hereafter to be Secretary of War and should take that view of it he might give a consent which would result in the practical destruction of this great scenic feature of our country.

There is another fact to which I want to call attention. Anyone who will examine the map will see that the tributary rivers, the tributary streams, brooks, etc., the taking of the waters of which is authorized by this charter on this southern divide, run within a very few miles of the shores of Lake Erie in New York, and it is perfectly practicable, cutting to the east of that divide to the shores of Lake Erie, to connect the waters of those streams with the waters of Lake Erie, and in that way bring them down to the waters of the Monongahela.

The waters to be affected are not limited to the State of Pennsylvania or of Ohio. The tributary waters of the Allegheny River are in the State of New York. The famous Chautauqua Lake feeds one of the streams that is a tributary of the Allegheny River. Its western shore is within a very few miles of the eastern shore of Lake Erie, and, so far as I can judge from information had and from an examination of the maps, it would be a matter of the easiest practical accomplishment to cut what is known as a "feeder" from Lake Erie to Lake Chautauqua, and then cut from the southern shore of Lake Chautauqua a channel which would make a feeder down to the Allegheny River.

Mr. President, Lake Chautauqua is included in the authority given in this act. Lake Chautauqua is one of the lakes the waters of which this canal company is authorized to use without limit for the purpose of supplying this canal, and it is perfectly practicable, by cutting what is known as a "feeder" at Lake Chautauqua to conduct its waters out to this proposed canal, to lower the surface of that lake 6 or 8 or any other number of feet, according to the depth of the feeder. Yet New York is not to be consulted in the matter, and no citizen of the State of New York can possibly be heard relative thereto.

Mr. President, I shall not consume further the time of the Senate. I had not, in the discussion of this matter, had in view the expectation of defeating this charter; but, for several reasons, I think it is a most unfortunate thing that it should be granted. First, it is absolutely unnecessary, because the States of Pennsylvania and Ohio have already granted authority for the building of this canal, and have had reciprocal legislation which authorizes the two companies formed in the two States to meet at the State line and make a consolidated company for the construction and operation of this canal. In the second place, I am opposed to it because it opens a precedent, the extent of which, if followed, is absolutely startling in its immensity. If this charter is granted, it will be upon the ground that, under the Constitution of the United States, a company which is to be engaged in interstate commerce is a company which can be properly chartered by the Congress of the United States. If that principle is to be adopted and carried out to

its fullest extent, it will relate to every railroad of any consequence in the whole United States, and will absolutely turn over to the Federal Government and to the administration of the Federal courts everything which relates to the management and control and business of practically all the railroads in the United States. What a revolution that will be in the internal affairs of each State is beyond the power of practical realization in its mere anticipation.

I am particularly opposed to it, Mr. President, because if we are to follow this precedent the States would absolutely lose the control of matters of this kind in so far as they relate to interstate commerce; they would lose control as to every corporation, great or small, on the land or on the water, engaged in interstate commerce. Can it be said that we are not going to do it? Are we to do it when any one of them asks for it? Are we to grant a charter whenever a corporation comes up and demands it, or are we to say, "We will be respecters of persons, and we will grant it in some cases and refuse it in others?" What can we do consistently, Mr. President, but to say that, recognizing the vast consequences which are to flow from this, we will grant these charters in no case except where there is involved a great governmental function, the performance of which can only be properly accomplished through a charter granted by the Federal Government, and the performance of which can not be accomplished through a charter granted by a State government.

Mr. President, there are a number of other details in this bill to which I should like to call attention, but I shall very briefly allude to but one matter. This bill proposes that these incorporators be permitted to issue stock not exceeding \$400,000 per mile, and that they be authorized to issue bonds not exceeding \$400,000 per mile, or a total of \$800,000 per mile. I have in this pamphlet, from which I have already read, the estimate by those who have made an examination of the matter, as to the cost of the construction of this canal. Referring to page 24, after speaking of the fact that the legislature in 1899 had appointed a commission to inquire into the practicability of this waterway and appropriated \$10,000 for that purpose, it says—this is from the speech of Mr. Shaw, on the occasion of this great meeting in Pittsburg:

They reported a canal could be built via the Beaver and Shenango rivers to Conneaut Harbor at a cost of about \$30,000,000.

I presume that that is the most practicable route, or they would not have selected it for that purpose.

Mr. President, in this same speech it is stated that the length of that canal would be 122 miles. If any Senator will figure on it, he will ascertain that it is about \$270,000 a mile; and here is a corporation, with a report which they themselves bring here and lay before us, which says the canal can be constructed at \$270,000 a mile, asking us that they may put upon it obligations to the extent of \$800,000 a mile.

Mr. KNOX. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Pennsylvania?

Mr. BACON. I do.

Mr. KNOX. I wish to direct the attention of the Senator from Georgia, as well as the attention of the Senate, to the report of the Senate committee on that subject. The report of the Senate committee shows that the unit cost of construction upon every item which will enter into the construction of the canal has advanced in some cases as high as 60 per cent; and in a letter written to the chairman of the subcommittee, who reported the bill, it is shown that the cost of the physical structures alone on the present prices will amount to over \$500,000 a mile, and that makes no allowance whatever for damages to be paid to property owners through whose land it passes or whose streams it may divert or other expenses incident to the construction of the canal.

Besides, the matter of capitalization is absolutely guarded by the Senate amendment, which prevents these people from issuing a dollar of capital over and above that which is actually required to construct the canal.

Mr. BACON. I will say to the learned Senator from Pennsylvania that if the bill is properly guarded in that particular, of course the criticism which I make in that regard is an improper one, and I would not insist upon it. I understand that the junior Senator from Wisconsin [Mr. LA FOLLETTE] has an amendment upon that subject. I have not had any opportunity to examine it. The Senator will very readily recognize the fact that reading from a report which he himself had laid before me, I was certainly excused if I was misled into supposing, when that report stated that the cost of the canal would be \$30,000,000, that that statement was correct. If it is not correct, I do not wish to make any adverse criticism upon it.

Mr. KNOX. That is a very natural mistake to make; but if

the Senator had observed, the pamphlet to which he refers was issued in December, 1904.

Mr. BACON. Yes.

Mr. KNOX. And this letter written to the Senator from Minnesota [Mr. NELSON], who reported the bill, was written March 20, 1906.

Mr. BACON. That is true. But the pamphlet was laid upon my desk by the Senator or his colleague, or by their authority, and when I receive a statement direct from those most interested, I certainly am excused if I do not go further to see whether or not it is correct. I was relying upon information which the Senator himself had put in my hands, and for that reason it was not necessary to go any further to look. If the Senator says the information he gave to me is incorrect, I accept the statement, and the Senate will understand that I do not make any criticism upon it, although I confess I am unable to understand how the estimated cost of this proposed canal has been raised from \$270,000 per mile to \$800,000 per mile.

Mr. KNOX. I do not state that the information was incorrect. The information was absolutely correct at the time it was given.

Mr. BACON. I know; but I mean now.

Mr. KNOX. The reason for the additional cost is fully explained in the report. I should think that the Senator who has occupied so much of the time of the Senate in debating this bill would at least have read the committee's report.

Mr. BACON. The Senator says it was correct at the time. I supposed when I received it from the Senator that he meant me to understand it was correct now. I do not mean that the Senator intended to mislead me. I know he did not. I am simply suggesting to the Senator that when he puts before me a document in which a statement is made, I do not deem it necessary to go further to see whether those conditions have changed; and there was no intimation to me that they had changed; and I repeat I do not see how the changes in conditions in two years can cause so great a change in cost.

Mr. CULBERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Texas?

Mr. BACON. Certainly.

Mr. CULBERSON. Let me call the Senator's attention to a matter in connection with the statement he has just made. The Senator from Georgia has very properly pointed out that under section 3, stock to the amount of \$400,000 a mile, and bonds in addition, to the extent of \$400,000 a mile, may be issued against this property. I call his attention to another fact, which to my mind is significant, and that is that the debt referred to is limited to bonded indebtedness, and the words "and other," referring to indebtedness, have been stricken out.

So, in addition to stock at the rate of \$400,000 a mile and a bonded indebtedness of \$400,000 a mile, there may be other indebtedness issued against this property. For some reason which I do not understand, but which appears to me significant, the words "and other" were stricken out, so that there is no limitation whatever in the bill upon the amount of indebtedness which may be issued against the property of this corporation per mile, except with respect to the bonded indebtedness. Of course there may be other indebtedness against the property than that evidenced by bonds.

Mr. BACON. I am very much obliged to the Senator. The fact to which he has alluded had escaped me.

I desire to call attention to one other matter, and that is section 5. This assumes to be a great work in the interest of the public, and the bill undertakes to make provision by which the public is to be protected from improper charges. The words are used in the bill which were taken from the rate bill—that the charges shall be "just and reasonable and fairly remunerative." I presume the Senator who favored the striking out of the words "fairly remunerative" from the rate bill will also favor striking out those words from this bill so as to leave it "just and reasonable."

Mr. CULBERSON. In what section is that?

Mr. BACON. I have forgotten where that is particularly. Those words are in there—"just and reasonable and fairly remunerative." But the point I am calling attention to in the fifth section is this: In this provision the proposition is certainly intended to be laid down and the understanding had that there should be only a fair remuneration to those who go into this enterprise for the work which they perform and the investment which they make. In addition to that, though, section 5 provides this:

SEC. 5. That the said company may from time to time set aside a portion of its net earnings to be a sinking fund for the redemption of its said bonds or securities, with or without unearned interest, at such times, in such proportion, and in such manner, by allotment or otherwise, as may be determined by the board of directors.

Then immediately thereafter in the next section it prescribes that whenever there has been as much as \$5,000 for every mile subscribed and paid in there may be an organization, and there is no provision in the bill—I may be mistaken, and if I am I shall be glad to be corrected—which requires the payment of any additional money. Taking the two together, with this vast amount of bonded indebtedness authorized and the unlimited indebtedness further authorized, to which the Senator from Texas has called my attention, it is manifest to my mind—I may be mistaken about it; I may draw an improper conclusion—that the scheme is to pay in \$5,000 a mile, and to contract a great debt, and then to make the public out of what it shall pay for the use of the canal pay ultimately for the canal. This can be done, as there is no limit on the contraction of debt other than the bonded debt.

I think if this is to be a great enterprise, in the interest of the public, that those who go into it should pay for it out of their own pockets, and not out of the earnings from the people, unless they use their own dividends when earned for the purpose of paying it off. They should not themselves enjoy dividends and at the same time have the right to make such charges as will enable them in addition to lay aside money which will ultimately pay the cost of the construction of the canal.

Mr. President, I want to say just one word in a matter I omitted in speaking of the constitutional question. I have no doubt in the world, as I have repeatedly said, as to the ruling of the Supreme Court in the future, as it has made in the past, that Congress has the right to charter a corporation to engage in interstate commerce. I have as little doubt about that as I have about the proposition that that was not the original contemplation of the framers of the Constitution. It is true it matters not what was in fact their intention, as we are to be controlled and guided by the present interpretation of the instrument by the courts of the land. But my attention has been called to the action of the convention which framed the Constitution, which illustrates the fact that such was not the purpose of the framers of the Constitution.

It so happened that a similar question to this was before the Senate in the year 1869. That was a proposition to charter a railroad from the city of New York to the city of Washington, basing it upon the identical grounds that being engaged in interstate commerce it was a legitimate matter of legislation in the granting of a charter. That was debated in this body, and there participated in that debate the present junior Senator from Maryland [Mr. WYLLIE], who has returned to us after his service of several different times in this body. In the speech which he made on that occasion against the granting of that charter, which, by the way, the Senate in that day considered to be an improper thing and refused to do, he read from the proceedings of the Constitutional Convention. I have his speech before me in the Congressional Globe. It was a date prior to the CONGRESSIONAL RECORD—January 20, 1869. The Senator from Maryland [Mr. WYLLIE] read this extract from the Madison Papers. The committee of the Convention had under consideration the clause in the Constitution which authorizes Congress to construct post-roads, when this occurred in the Convention:

Doctor Franklin moved to add after the words "post-roads," article 1, section 8, a power "to provide for cutting canals where deemed necessary."

Mr. Wilson seconded the motion.

Mr. Sherman objected. The expense in such cases will fall on the United States and the benefit accrue to the places where the canals may be cut.

Mr. Wilson. Instead of being an expense to the United States, they may be made a source of revenue.

Mr. Madison suggested an enlargement of the motion—

To this particular point I call attention—

Mr. Madison suggested an enlargement of the motion into a power "to grant charters of incorporation where the interests of the United States might require and the legislative provisions of individual States may be incompetent." His primary object was, however, to secure an easy communication between the States, which the free intercourse now to be opened seemed to call for. The political obstacles being removed, a removal of the natural ones as far as possible ought to follow.

Mr. Randolph seconded the proposition.

Mr. King thought the power unnecessary.

Mr. Wilson. It is necessary to prevent a State from obstructing the general welfare.

Mr. King. The States will be prejudiced and divided into parties by it. In Philadelphia and New York it will be referred to as the establishment of a bank, which has been a subject of contention in those cities. In other places it will be referred to mercantile monopolies.

Mr. Wilson mentioned the importance or facilitating by canals the communication with the western settlements.

The motion being so modified as to admit a distinct question, specified and limited to the case of canals, Pennsylvania, Virginia, and Georgia voted for the proposition; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, and South Carolina voted "no."

The other part fell, of course, including the power rejected.

So we have here, Mr. President, not a side light, but a direct light cast on what was the purpose and understanding of the framers of the Constitution. Railroads in those days were unknown. If they had been known, I have no doubt the proposition of Mr. Madison would have included railroads as well as canals.

Mr. President, I presume the Senate will give me credit for sincerity when I say that I had no expectation when I arose this afternoon of thus occupying the time of the Senate. I repeat, I regard it as a very grave question. We are to-day face to face with the proposition whether we shall in the exercise of this power grant these extraordinary corporate rights and powers to this particular corporation on the ground that it is to be engaged in interstate commerce, and at the same time have the mental resolve that we will not do so in the future, and that we will deny similar applications in the future, or else that we occupy the alternative attitude that we put behind us now and forever the proposition that we are to leave to the States the exercise of the functions of granting corporate charters in cases not necessary and essential to the performance of any governmental function, and that hereafter whenever a corporation comes here and says that it is to be engaged in interstate commerce we will give it a Federal charter, give it the power to deny to the States the right to tax its franchise, and the right of the citizens to go into their own courts to settle disputes which they will have with these corporations.

We must do one of two things. We must either occupy the attitude of being respecters of persons, of granting these charters in certain cases where certain influences may demand them, and of denying them in other instances where they may not be so fortunate. We have either got to do that, if we grant this charter, or else we have to open the door and say hereafter the States shall no longer, if parties choose to elect in favor of a Federal charter, have control of these agencies of commerce in their own States; that the States shall no longer have the right to tax their franchises; that the States shall no longer have the right to adjudicate the rights of citizens in their own States in controversies between themselves and these myriad agencies. Mr. President, what a revolution would that be in present conditions.

Mr. President, there is another very serious consideration. We can not say to corporations when they come here, "We have granted it to others, and we deny it to you." If we do not say that, what is to be the political effect in this country of all the corporations engaged in interstate commerce having Federal charters, knit together by a common sympathy, and exercising power under a common authority? Who will doubt the fact that they will go at once into national politics? Who can doubt the fact, whenever the great corporations of this country, solidified and unified as they are rapidly becoming, are all of them in the exercise of power under Federal authority, that they will exercise great influence over the affairs of the Federal Government?

Mr. President, I repeat it is a most grave matter, and I repeat it simply for the purpose of excusing myself if I have occupied unduly the time of the Senate, and if I have expressed myself with unwonted earnestness it is because of the gravity of this matter in my opinion, and I may be excused and acquitted by Senators who have an interest in this matter of any intention to interfere in any manner with those matters which may seem more particularly to concern them, matters in which they have a very deep concern, and if any intemperate word has fallen from me in this discussion, it is due to my appreciation of the gravity of the question, and not because of any want of consideration of them.

PUBLIC SCHOOLS IN THE DISTRICT OF COLUMBIA.

Mr. BURKETT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 18442) to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8, 13, 14, 16, 17, and 51.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 18, 19, 20, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 35, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, and 54; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: Strike out in said amendment the words "in the grades;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: Page 5, line 14, strike out the word "schools" and insert before the word "high" the word "normal;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: In lieu of the word proposed in said amendment insert the word "four;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: After the word "School," in the last line of said amendment, insert the words "but this limitation shall not apply to pupils who have already entered upon a continuous course of two or more years;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: Strike out the word "board" in said amendment and insert the word "boards;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: Page 8, line 9, after the words "normal schools," strike out the word "or" and insert the word "and;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment as follows: In lieu of the matter inserted in said amendment insert the following: "of examiners. No person without a degree from an accredited college, or a graduation certificate from an accredited normal school, such normal school graduate to have had at least five years of experience as a teacher in a high school, shall hereafter be appointed to teach any academic or scientific subjects in the normal, high, and manual training schools;" also strike out the word "board" on page 8, line 12, and insert the word "boards;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: Strike out in said amendment the word "board," in line 1, and insert the word "boards;" also strike out the words "this board" and insert the words "these boards;" and the Senate agree to the same.

E. J. BURKETT,
N. B. SCOTT,
JOHN M. GEARIN,

Managers on the part of the Senate.

EDWARD MORRELL,
WILLIAM S. GREENE,
F. A. McLAIN,

Managers on the part of the House.

The PRESIDING OFFICER. The question is, Will the Senate agree to the report?

Mr. McCUMBER. I wish to ask the Senator who has made this report, as it is up now for action, to briefly state what the amendments are. Of course one can not tell merely from hearing the report read as to what are the amendments made by the committee.

Mr. BURKETT. There are quite a number of amendments made by the conference committee. In the main they change words from the singular to the plural form, and relate to terminology. I think the chief amendment, the one that is most distinct, is the one that pertains to the qualifications of high school teachers. The Senator will remember that the Senate agreed to an amendment to the House bill, providing that a teacher of the high school must have a college degree. The conference committee agreed to that with an amendment accepting a certificate from a recognized normal school. That is the amendment to it. It is left as the Senate had it, but accepting as a qualification a certificate of a normal school.

Mr. NELSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Minnesota?

Mr. BURKETT. Certainly.

Mr. NELSON. Will the Senator be good enough to state what disposition was made of the amendment which I offered in the Senate striking out the word "four" and inserting "five," so that teachers of drawing and others would get the pay of class 5 and class A of class 6?

Mr. BURKETT. Does the Senator remember what page it was on?

Mr. NELSON. It was on page 7 of the original bill.

Mr. BURKETT. Page 7?

Mr. NELSON. At the top of page 7.

Mr. BURKETT. I will say to the Senator that at the top of page 7 and at the bottom of page 6 the Senate receded from all those amendments, and put it back in the condition it was in when it came from the House, leaving it four and five. It puts domestic science teachers in the same class with physical culture and drawing teachers.

Mr. NELSON. What about teachers of drawing in the high schools?

Mr. BURKETT. It leaves the bill in that respect just as it came from the House to the Senate originally. It drops out the Senate amendment.

Mr. McCUMBER. May I ask the Senator what was the action of the conferees in reference to the amendment fixing the qualifications of the assistant superintendent?

Mr. BURKETT. That was stricken out by the conferees.

Mr. McCUMBER. So that at present no particular qualifications are required of the assistant superintendent?

Mr. BURKETT. No. It is left just as it came from the House. That was amendment numbered 51, I will say to the Senator, and the Senate receded. There is no qualification for the superintendent or the assistant superintendent, and for a good many more for whom some qualifications ought to be prescribed. But, as we tried to explain in the first place, we did not go into the matter of organization very thoroughly.

Mr. McCUMBER. Is the Senator especially desirous of having the report adopted to-day? Is there any occasion to have it adopted before it can be printed, so that we can see just what the amendments are which have been agreed to and those from which the Senate receded?

Mr. BURKETT. So far as I am concerned, it is immaterial to me other than to comply with the request of other members of the Senate and House. The District of Columbia appropriation bill is necessarily being held up until we can get this bill through. As the Senator will remember, all the school salaries in the District appropriation bill and all the appropriations for the public schools were stricken out when the District appropriation bill was before the Senate. Of course, they can not bring in a bill without filling in something, and they are waiting until we can get this bill through, so as to tell what amount to put in. Of course, they are urging us all the way along, and the report ought to be considered here. We hoped to get it over to the House this evening, so that it could be printed and be taken up under their rules in the morning, and then sometime to-morrow the conferees on the District appropriation bill could consider the matter. It is the haste of others that is pushing the committee, which has made us want to have the report taken up and disposed of at once.

I will say to the Senator, as the report shows, that the House receded from its disagreement to practically all of the Senate amendments. There are only six from which the Senate receded, and most of them are verbal changes. There was only one important one, and that was on the matter of the qualification of the assistant superintendent, where the Senate receded.

Mr. McCUMBER. That was to me quite an important amendment—in fact, I thought it was the most important of all the amendments made in the Senate. I wish the Senator could let the report be printed this evening, and it will be business, of course, which will take precedence over all other business to-morrow. We could then see just exactly what changes have been made.

Mr. BURKETT. It will delay it one day in the House, and that is why they have urged us to get it considered to-night, so that it may go over there and be taken up to-morrow. It will simply delay the matter in connection with the District appropriation bill.

I understand the interest the Senator from North Dakota took in this subject, and I will say to the Senator that the Senate conferees were loyal for four or five days hanging on to the Senator's amendment. I do not know whether I ought to tell that or not. However, after a good deal of discussion and consideration in conference it was obvious that it would have to go out. I do not think any further conference could do other than kill the bill if that particular amendment was insisted upon.

Mr. McCUMBER. I do not know, Mr. President, that I will insist upon the matter going over if the Senator is in a hurry. I feel that the time will come when we will need to make an amendment to this bill. I think it is such an improvement over the law as it has heretofore stood that perhaps we had better take what we can get, and so get a much better bill than we now have, with the hope that we may secure a still better one in the future.

Mr. BURKETT. I will say to the Senator that if the new board which is created does not handle some matters and some

positions that are without any particular merit in the estimation of the committee, it will be very proper for Congress at the next session to do away with some of these supernumerary positions and reorganize the schools as they should be organized.

The PRESIDING OFFICER. The question is on agreeing to the report.

The report was agreed to.

LAKE ERIE AND OHIO RIVER SHIP CANAL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14396) to incorporate the Lake Erie and Ohio River Ship Canal, to define the powers thereof, and to facilitate interstate commerce.

The PRESIDING OFFICER. The question is on agreeing to the first amendment as amended.

Mr. BACON. That is what amendment?

The PRESIDING OFFICER. On page 2.

Mr. BACON. As I understand the amendment to the amendment it strikes out the last sentence of the words proposed to be inserted by the committee.

The SECRETARY. Striking out the words:

Said corporation is also vested with all such further and additional powers as may be necessary to carry out the purposes of this act.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

The next amendment of the Committee on Commerce was, in section 2, page 3, line 4, after "railroad," to insert "and ship canal;" so as to make the section read:

SEC. 2. That the company, in addition to the powers expressed or implied in this act, shall have the right of eminent domain, which shall be exercised as provided in the case of railroad and ship canal companies organized under the laws, respectively, of the States of Pennsylvania and Ohio.

The amendment was agreed to.

The next amendment was, in section 3, on page 3, line 7, after the word "exceed," to strike out "three" and insert "four," so as to read:

That the capital stock of the company shall not exceed \$400,000 per mile of canal proposed to be constructed, etc.

The amendment was agreed to.

Mr. CULBERSON. In line 9 the words "and other," before "indebtedness," are proposed to be stricken out.

The PRESIDING OFFICER. The Secretary has not yet stated that amendment.

Mr. NELSON. I suggest that we pass on the committee amendments first and then take up other amendments afterwards. We have not yet reached the amendment the Senator refers to.

Mr. CULBERSON. I wish to move an amendment to the committee amendment.

Mr. NELSON. We have not reached that yet.

Mr. CULBERSON. It is in section 3.

The PRESIDING OFFICER. It is the next amendment, the Chair will state to the Senator.

Mr. STONE. Mr. President, I know that the Senators in charge of this bill and the Senate are anxious to dispose of this measure as speedily as possible, and it ought to be disposed of to-day.

It is not my intention to delay a vote on the bill by consuming much time. But, Mr. President, as I am a member of the Committee on Commerce, and as I was a member of the subcommittee to which this bill was referred, I feel as if I ought to say something with regard to it. I attended all the meetings of the subcommittee except one. I voted to report the bill favorably to the whole committee, and afterwards to report it to the Senate.

If I can judge by the course the discussion has taken, it looks as if few Senators on this side of the Chamber are in sympathy with the action I intend to take and the vote I intend to cast. I want, therefore, to occupy a little time to explain my position and to give a reason for my vote. I expect to vote for the passage of the bill. I think it ought to be passed. I can not see a good reason why it should not be passed. There seems to be no doubt about the constitutional right of the Congress to grant this charter.

I listened to the greater part of the interesting speech delivered by the senior Senator from Georgia [Mr. BACON] in opposition to the bill, and I have listened to the speeches of other Senators in criticism of the measure. No one who has opposed the bill has denied that the Congress is clothed by the Constitution with power to grant this charter. There can be no doubt that that power exists. Whether the Constitution

should have invested the Congress with this power, or whether the courts should have so construed the Constitution as to invest the Congress with this power, are questions so devoid of practical consequence as to be of little value. A discussion of that subject is without significance. It might do for a debating society, but it is of little value here. Such questions are settled questions, and I believe they were properly and wisely settled.

Mr. President, I have been all my life associated and in sympathy with that school of politics which believes in a strict construction of the Constitution. But the Constitution is not a meaningless thing. It means what it says. Some of the wisest and greatest Democrats whose names and achievements adorn our history have stood for the exercise by Congress of just such powers as it is proposed shall be exercised at this time and through the agency of this measure.

It is utterly useless to discuss in an academic way questions which have long since passed into the domain of well-settled law. Granted, therefore, that Congress has, and unquestionably it does have, the power to create this corporation, we come next to inquire as to the policy of exercising that power.

Mr. President, as to the question of policy—that is, whether the Congress should pass this bill and create this corporation—Senators may very properly differ.

When this bill was first called to my attention in the committee, I seriously doubted whether it would be a wise policy for Congress to create a corporation of this character. Certainly Congress ought to be very slow in granting charters to business corporations. In ninety-nine cases in every hundred those seeking corporate franchises should be remitted to the States. But, Mr. President, whether Congress shall exercise the power of creating a corporation, where it has constitutional warrant to create it, is and should be a question to be determined by the facts and circumstances of each particular case. There may be circumstances and conditions in particular cases where the Congress ought to grant charters, and I think this is one of those rare cases.

This canal company is to utilize navigable waters under the jurisdiction of the United States. If we did not pass this bill and the company should be compelled to incorporate under the laws of a State, it would be necessary for the company to come to Congress for authority to use navigable waters in the way it would have to use them, and so Congressional authority would have to be invoked in any event. Then why not let Congress act in the first instance?

Mr. President, I believe that the Government of the United States itself ought to construct works of this character. When I came to consider this bill an objection arose in my mind because this work, national in character, was to be committed to the hands of a corporation. But while that was true, I saw no prospect of the Government undertaking the work for years to come, if, indeed, it should ever do so.

The United States are now engaged in the construction of a canal across the Isthmus that will occupy their attention and monopolize their energies and resources for many years to come, and through that indefinite period it is scarcely to be hoped that the Government will enter upon a like enterprise of the magnitude of this. So it seemed to me that if we were to wait for the Government to take it up we would wait for years without assurance that it would ever be done.

Mr. President, the commercial importance of this work can not be gainsaid. There is a real demand for the construction of this canal. A greater amount of freight is carried to and from Pittsburg to Lake Erie points than is carried in any other similar area in the world. At this time over 50,000,000 tons are transported between Pittsburg and the lake, and the tonnage is increasing from year to year. This canal would open a new highway for this commerce and greatly cheapen the cost of carriage. It would open a cheap waterway to the Great Lakes and to all the rich and prosperous country tributary to them. The value of the enormous commerce that this canal might accommodate is adequately and accurately stated in the report of the committee.

There is no constitutional objection to the bill. Neither can any wise, well-founded objection to it be stated based on grounds of public policy. On the other hand there are commanding reasons of great commercial consequence why the canal should be constructed. Then why should not this act be passed?

One other thing, Mr. President, which has operated to induce me to support this bill is the fact that for years I have dreamed—I think "dreamed" is the proper word—of a great transcontinental waterway from New Orleans, on the Gulf of Mexico, to tide water somewhere on the North Atlantic coast. I say I have dreamed of this, but I have no doubt it is a dream which some day will be realized.

Mr. President, I am not sure that the millions we are to expend in the construction of the Panama Canal would not be more profitably and wisely expended if we should devote them to the construction of a canal from Lake Michigan to the Mississippi River, and thence down that great stream to the Gulf, making the canal and the river navigable for such ships as ply the Lakes. That is a project which Congress will be called upon some day to deal with, and to deal with as a great national problem—a problem to be worked out not by corporations, but by the nation itself.

The Mississippi River has within its banks water in abundance to answer the needs of such a highway, if only these waters are put under control; and they can be controlled and utilized if some of the ablest engineers of the country are to be believed. It will be a stupendous work to make this waterway, and a costly one, too, but it will be well worth all it will cost in labor and treasure.

A canal connecting the Lakes with the Mississippi River, and with that river so improved as to make it navigable for large vessels, thus connecting the Gulf and the Lakes, and thence across the Lakes and through the Erie Canal to New York, would make a waterway the like of which the world has never seen. Its value would be beyond the power of man to compute; and, moreover, it would in large measure solve the most intricate and difficult problems of railroad transportation.

I believe this canal, built from Pittsburg to Lake Erie, would be in the course of time but an arm to a great system of canals that ought to be, and some day will be, constructed by the Government of the United States. The great States of the Mississippi Valley and the great agricultural and manufacturing States of the Middle West will some day demand that this greater work shall be done, and they will be strong enough to enforce the demand. Because this Ohio River and Lake Erie Canal will be a beginning and a part of the great canal system we ought to have, and are to have, is one reason why I am for this bill. If the Government would build the canal provided for in this bill, I should infinitely prefer it; but as it is, since the Government is not prepared to enter upon the work, I can see no legitimate objection to authorizing an association of enterprising American citizens to undertake it and complete it.

Mr. President, this bill has been criticised, as it should have been. Some amendments have been suggested to it and agreed to. The committee that had it in charge labored assiduously and faithfully to perfect it, so as to guard, as far as possible, the public interest; and I believe we have brought a good measure here. Senators have complained of this and of that, without having carefully examined the provisions of the bill itself. Their attention has been called in the course of the debate to provisions in the bill that proved the folly of many of their criticisms. For instance, the Senator from Georgia [Mr. Bacon], and perhaps others, thought it unwise and in some respects dangerous for Congress to create a corporation that could exercise the right of eminent domain. They cried out against conferring upon a national corporation the power to enter a State and condemn the property of citizens under the law of eminent domain. Whether that objection was well founded or not, in an academic or a theoretical sense, in its application to this bill it is absolutely without merit. Section 11 provides:

Sec. 11. That the said company, in the exercise of its right of eminent domain as granted in section 2 of this act, may, at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed, enter upon, etc.

The Senate amended the bill as it came from the House so as to require the corporation in taking land, or in doing anything else under the law of eminent domain, to conform its action and procedure to the law of the States. So there is nothing to that.

In like manner you may go through the whole bill, Mr. President, and these objections, one after another, may be answered by pointing to the provisions of the bill itself. I see no reason why the Senate should stand in the way of the passage of a bill so carefully drawn as this one is, and which so well guards the public interest; a bill which is unquestionably authorized by the Constitution; a bill against which no good reason founded in public policy can be urged; a bill which meets a great public commercial need, and which, to a large extent, satisfies it; a bill that would promote the public welfare, not only of the States through which the canal would pass, but of a vast region of country in which many of the greatest industries of the nation are located—a region populous, opulent, with resources beyond computation, and with a future so glorious that no human foresight can circumscribe it. I can

see no reason why a bill so constructed and serving such ends should not be enacted.

So I looked at it, Mr. President, when it was before the committee, and feeling then as I do now I voted to report it, as did every other member of the Committee on Commerce who was present, without regard to party division. I intend now, though I may stand alone on this side of the Chamber, to vote for it again.

Mr. BERRY. Mr. President, I do not rise to discuss the pending bill and should have said nothing but for the last remark of the Senator from Missouri [Mr. Stone]. I am a member of the Committee on Commerce, but I was not present at any time when the bill was pending before the committee. I was absent in Arkansas. I did not know the bill had been pending before the committee until the delivery of the speech of the Senator from Pennsylvania [Mr. Knox] a few days ago. Had I been present in the committee, I should have voted against a favorable report on the bill. I never have voted in favor of the General Government granting charters to corporations of this character, and shall not do so now.

I simply wanted to correct the statement that it was a unanimous report of the committee.

Mr. STONE. I said of those present.

Mr. BERRY. Yes; I was not present, and therefore did not vote. I was not included.

Mr. STONE. No; the Senator was not included.

Mr. TELLER. I should like to ask some Senator where this proposed canal will strike the Great Lakes, if anyone is sufficiently informed to tell me? I can not find out from reading the bill. I do not know where it is. The point is not designated.

Mr. KNOX. At or near Ashtabula.

Mr. TELLER. Does it say so in the bill?

Mr. KNOX. No; it does not. The northern terminus is not specifically located in the bill; but that is the plan.

Mr. TELLER. That it shall be near Ashtabula?

Mr. KNOX. Yes; and I will say to the Senator from Colorado that it will have to be located at such point as may be approved by the Secretary of War; and certainly his idea is to locate it at Ashtabula.

Mr. TELLER. I want to call the attention of the Senator to a provision here which strikes me as very remarkable, though I do not say that it seriously affects the bill. It is this proviso on page 10:

Provided, That no feeders to supply water shall be connected with or draw water from the Niagara River above the Niagara Falls.

Mr. KNOX. I believe the Senator from Wisconsin [Mr. Spooner] has an amendment to propose to that proviso, which will make a very material difference in the reading of the bill.

Mr. TELLER. I want to say that no water could be gotten into this canal from the Niagara River unless it should run uphill. Niagara River is much below any point where, I think, this canal can be built to strike the Lakes. I do not suppose this proviso will endanger the bill, but it looks somewhat ridiculous, and as if we did not know much about the geography of that section of the country. That happens to be a section of country which in my early days I knew something about.

Mr. BACON. If the Senator will examine the map, he will see that the headwaters of the Allegheny River rise at about Lake Chautauqua.

Mr. TELLER. I do not need to examine the map. That is a country with which I am familiar.

Mr. BACON. I withdraw the suggestion. I understand the fact to be, however, as I suggested.

Mr. TELLER. I understand that.

Mr. BACON. If the Senator will pardon me, I was simply replying to his suggestion as to the impossibility of water coming from that direction by referring to the fact that the headwaters do rise in that neighborhood and flow—

Mr. TELLER. Mr. President, they do not rise anywhere near the Niagara River.

Mr. BACON. I beg the Senator's pardon for undertaking to suggest anything on the subject.

Mr. TELLER. It is an impossibility to get any water into the Allegheny River from the Niagara River, and the upper waters of the Niagara River will be a great many feet higher than the others. But that is not a matter of any consequence to the bill, except that it rather mars the bill in the opinion of those of us who happen to know how ridiculous it is to put it in there.

Mr. KNOX. Mr. President—

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Pennsylvania?

Mr. TELLER. Certainly.

Mr. KNOX. I only want to call the Senator's attention to

the fact that the provision was inserted by the committee. Not having been upon the committee, I can not tell why it was inserted.

Mr. TELLER. I saw that the provision had been put in by the committee.

Mr. CLAY. I will say to the Senator that I think it was inserted at the instance of the senior Senator from New York [Mr. PLATT].

Mr. PENROSE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Pennsylvania?

Mr. TELLER. Certainly.

Mr. PENROSE. I desire to state for the information of the Senator from Colorado that he is entirely right. That provision is not necessary and it may be not properly in the bill, but it was put in, following the lines of an amendment introduced by the senior Senator from New York, to quiet the apprehensions of many good people who are fearful that further devastation will occur in connection with the Niagara River and Niagara Falls. I myself do not consider that the provision amounts to anything, either as a protection or that it has reference to the canal.

Mr. TELLER. That is correct, Mr. President. I heard from the Senator from Georgia [Mr. BACON] that we had passed a bill to prevent the taking of water out of the Niagara River. I was not aware of that fact, and I thought I kept fairly well in touch with what is going on; but that escaped my attention. I myself deny the right of Congress to interfere with the Niagara River. That right belongs to the State of New York.

Mr. SPOONER. It is an international stream.

Mr. TELLER. And anything may be done to that river that does not impair its navigation. When anything interferes with navigation, the nation may undoubtedly have something to say, but except at its upper end it is scarcely a navigable river on account of its rapids, etc.

I know there is a very sensitive feeling and very great excitement throughout the country about the destruction of Niagara Falls. That is a stupendous falls, it is true; but I myself can not sympathize with the sentiment that complains of the useful appropriation of water for power, for irrigation, or for any other purpose that is legitimate and proper. I suppose not one person out of ten thousand in the United States ever sees the falls. If the water power of those falls can be utilized for the benefit of commerce and the benefit of humanity, it ought to be done. If there is anywhere a right to interfere for the protection of the falls, the Niagara River at that point not being navigable and the Government not having anything to do with it, that right belongs, in the first instance, in my judgment, to the State of New York, though of course it is a dividing line between the United States and Canada.

I suppose the same question arises with reference to the people of Canada. The Canadians are taking the water out on their side, as it is being taken out on ours, and the Canadians will continue to take that water, whatever we may do. When the bill for the protection of Niagara Falls becomes a law, the situation will be that while the Canadians are taking the water out on their side, we will have passed a law providing that the people of the State of New York shall not take the water on their side. That is one of the things that we ought to let alone.

The proposed Lake Erie Canal will not interfere with the Niagara River in the slightest degree, and I do not think it can take any water from the lake that will do the lake any harm. The water that goes to the useful purpose of this canal must be taken from those rivers which the canal will cross, and, so far as that is concerned, I do not think there is any complaint that can be made about this bill.

My objection to it is not on any of those grounds. I object to it because I do not think the Government of the United States ought to charter such companies when there is ample power in the States to do the same thing, and they can do it just as well as we can.

The PRESIDING OFFICER. The next amendment of the Committee on Commerce will be stated.

The next amendment of the Committee on Commerce was, in section 3, page 3, line 9, after the word "bonded," to strike out "and other;" in line 10, after the word "exceed," to strike out "three" and insert "four;" in line 11, after the word "mile," to insert "of canal;" in line 12, before the word "debt," to insert "bonded;" in line 13, before the word "hundred," to strike out "six" and insert "eight;" in line 14, after the word "constructed," to strike out "and" and insert "Provided, however, That;" in line 15, after the word "and," to strike out "fully paid in in cash and bona fide expended in the promotion,

maintenance, and construction of said canals and works; and" and to insert "paid in in money, or property at its fair value: Provided further, That;" in line 20, after the word "be," to strike out "in larger amount" and insert "more;" in line 25, after the word "bonds," to insert "secured by a mortgage or deed of trust upon its property and franchises;" and on page 4, line 2, after the word "company," to strike out "secured by a mortgage upon its property and rights of property of all kinds and descriptions, real, personal, and mixed, including its franchise to be a corporation;" so as to make the section read:

Sec. 3. That the capital stock of the company shall not exceed \$400,000 per mile of canal proposed to be constructed, divided into shares of \$100 each, and the bonded indebtedness authorized by this act shall not exceed \$400,000 per mile of canal proposed to be constructed, so that the sum total of stock issued and bonded debt created shall not exceed \$800,000 per mile of canal proposed to be constructed: Provided, however, That the amount of debt created by the issue of bonds shall in no case exceed the amount of stock subscribed for and paid in in money, or property at its fair value: Provided further, That in no event shall the stock issued and debt created be more than may be necessary to construct, equip, maintain, and operate said canals and works pursuant to and in compliance with all the provisions of this act; and said company is hereby authorized to issue its bonds, secured by a mortgage or deed of trust upon its property and franchises, and the same shall be a first and prior lien to all other claims or demands upon the company.

The amendment was agreed to.

Mr. LA FOLLETTE. Before passing from that amendment I wish to make an inquiry about the words "and other," in line 9, on page 3. I understood when the Senator from Texas [Mr. CULBERSON] brought up the consideration of those words earlier in the discussion a short time ago, it was agreed that the committee amendment should be rejected and that the words "and other" should remain in the bill. The Senator from Pennsylvania [Mr. KNOX], who has charge of the bill, informs me that he is entirely willing that those words should remain in the bill. I see the Senator from Texas is absent from the floor now, and I ask—

The PRESIDING OFFICER. Does the Senator offer an amendment?

Mr. LA FOLLETTE. I ask that the vote be reconsidered by which that particular amendment was agreed to.

The PRESIDING OFFICER. Without objection, the amendment referred to will be considered as open. Does the Senator from Wisconsin ask to disagree to that amendment?

Mr. LA FOLLETTE. I ask that that amendment be disagreed to. I understand the Senator from Pennsylvania in charge of the bill is willing to have that done, so far as he is concerned.

Mr. KNOX. Mr. President, as I said the other day, I am not in charge of this bill. This bill is, I think, properly in charge of the Senator from Minnesota [Mr. NELSON], who has reported it. I merely called it up and have done some work in connection with it at his request. What I have stated to the Senator from Texas [Mr. CULBERSON] before he left the Chamber, and what I have said to the junior Senator from Wisconsin [Mr. LA FOLLETTE], is that personally I see no objection to restoring the words "and other." It seems to me that the bill is more liberal to the corporation with the words restored than it is with them stricken out.

Mr. NELSON. I will briefly state to the Senate the reason why the words "and other" were stricken out. It was made to appear to the committee—and we had several hearings on the subject—that in the construction of the canal the company oftentimes might be obliged temporarily to secure additional funds. In the first instance, they would issue a given quantity of bonds to build the canal, and then, as the work progressed from time to time, they might find it necessary to incur indebtedness for temporary purposes; but with the words "and other" in the bill they would be absolutely cut off from doing so if their bonded "and other" indebtedness exceeded the amount named in section 3. For that reason I think those words ought to be stricken out.

Mr. LA FOLLETTE. Mr. President, if the words "and other" are retained in the bill, I am wholly unable to see that the provision of section 3 limiting the indebtedness that may be incurred to \$800,000 per mile will preclude the canal company from enlarging that indebtedness. Certificates may be issued which, so far as making a charge upon this property is concerned, would be just as binding as would be the bonds that are to be issued.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment of the Committee on Commerce was, in section 4, page 4, line 8, after the word "impaired," to insert

"nor shall any dividend be paid by the issue of additional capital stock;" so as to make the section read:

SEC. 4. That no dividends shall be declared or paid whereby the capital of the company shall in any manner be reduced or impaired; nor shall any dividend be paid by the issue of additional capital stock.

The amendment was agreed to.

The next amendment was, in section 6, page 4, line 20, after the words "city of," to strike out "Pittsburg" and insert "Pittsburgh;" and in line 25, after the words "vote of," to strike out "those present" and insert "the capital stock represented;" so as to read:

SEC. 6. That as soon as at least \$5,000 of stock for every mile of canal proposed to be constructed is subscribed and paid for in cash, the incorporators named herein, or a majority of them, shall call a general meeting of the shareholders, to be held in the city of Pittsburgh, Pa., for the purpose of electing a board of directors of said company, consisting of not less than nine of the shareholders, and of transacting any other business that may be done at a shareholders' meeting. At such meeting the shareholders shall decide by a majority vote of the capital stock represented, either in person or by proxy, the length of the term or terms of the directors, etc.

The amendment was agreed to.

The next amendment was, in section 7, page 5, line 25, before the word "make," to strike out "to" and insert "may;" so as to make the section read:

SEC. 7. That the directors of said company, a majority of whom shall constitute a quorum, shall hold office until their successors shall have been elected and qualified. They shall elect a president, secretary, and treasurer and may provide for such other officers and employees as may be deemed advisable, and may make by-laws for the control and management of the works, property, and business of the said company.

The amendment was agreed to.

The next amendment was, in section 8, page 6, line 4, after the words "city of," to strike out "Pittsburg" and insert "Pittsburgh;" so as to make the section read:

SEC. 8. That the main office of the company shall be at the city of Pittsburgh, in the State of Pennsylvania, and the annual meeting of the shareholders shall be held on the third Tuesday of January in each year.

The amendment was agreed to.

The next amendment was, on page 6, to strike out section 9, as follows:

SEC. 9. That the said company shall be subject to the control of the Interstate Commerce Commission, the same as if it were a railroad corporation, and shall make such sworn statements and reports as may be required by the said Commission.

And insert in lieu thereof the following:

SEC. 9. That Congress hereby reserves the right to regulate the tolls, fares, and rates to be charged by said company for the use of said canals; and the said company and the said canals and all transportation thereon shall be subject to all the provisions of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts supplemental thereto and amendatory thereof now or hereafter enacted.

Mr. NELSON. Before that amendment is acted upon I desire to move to amend the committee amendment by the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. In the new section 9, page 6, line 13, after the word "regulate," it is proposed to insert "as to interstate and foreign commerce;" and in line 15, after the word "all," to insert the words "interstate and foreign;" so as to make the section read:

SEC. 9. That Congress hereby reserves the right to regulate as to interstate and foreign commerce the tolls, fares, and rates to be charged by said company for the use of said canals; and the said company and the said canals and all interstate and foreign transportation thereon shall be subject to all the provisions of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts supplemental thereto and amendatory thereof now or hereafter enacted.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, in section 10, page 6, line 20, after the word "to," to strike out "lay out, construct, maintain, and operate a" and insert "survey, ascertain, locate, fix, mark, and determine a route for a ship;" in line 24, before the word "Pennsylvania," to strike out "Pittsburg" and insert "Pittsburgh;" on page 7, line 4, before the word "accessible," to strike out "the most" and insert "an;" in line 10, after the word "near," to insert "Niles, Ohio; thence along the Mahoning River, in the State of Ohio, to a point at or near;" in line 12, after the word "Ohio," to insert "and thereupon and therein to erect, construct, maintain, and operate such canals;" in line 17, before the word "construct," to insert "to;" in line 24, before the word "forty-five," to insert "not less than;" and in line 25, before the word "twelve," to insert "not less than;" so as to make the section read:

SEC. 10. That the company is hereby empowered to survey, ascertain, locate, fix, mark, and determine a route for a ship canal from some point on the Ohio River, between Beaver, Pa., and Pittsburgh, Pa.; thence by the way of the Ohio, Beaver, and Mahoning rivers in the State of Pennsylvania, and the Mahoning River in the State of Ohio,

to a point at or near Niles, Ohio; thence northwardly through the State of Ohio to an accessible harbor on Lake Erie, between the Pennsylvania and Ohio State line and the mouth of the Grand River, in the State of Ohio, including said river, also a branch canal from the mouth of the Shenango River, in the State of Pennsylvania; thence along the Shenango River to a point at or near Sharon, Pa.; also a branch canal from a point at or near Niles, Ohio; thence along the Mahoning River in the State of Ohio to a point at or near Warren, Ohio; and thereupon and therein to erect, construct, maintain, and operate such canals; the said main canal connecting the Ohio River and Lake Erie to be of such dimensions as to make and construct navigable channels of at least 12 feet in depth and having a standard cross section of not less than 1,800 square feet of area; to construct, maintain, and operate all such locks, dams, towpaths, basins, tunnels, aqueducts, feeders to supply water from any lakes, rivers, streams, or water courses, reservoirs, cuttings, apparatus, appliances, and machinery as may be necessary for the construction and operation of said canals; and such locks on such main canals shall not be less than 340 feet long between quoins, not less than 45 feet wide between lock walls, and not less than 12 feet depth of water over miter sills, and between the Ohio River and Lake Erie the total lockage shall not exceed 600 feet.

The amendment was agreed to.

The next amendment was, in section 11, page 8, line 5, after the word "may," to insert "at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed;" in line 9, after the word "canals," to insert "feeders;" in line 10, after the word "authority," to insert "at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed;" in line 14, before the "railroads," to insert "waterways;" in line 16, after the word "canals," to insert "feeders;" and in line 17, after the word "company," to strike out "and whenever in the making, maintaining, and operating of the canals and other works of the company it shall be necessary to alter any highway, railroad, or other works, either public or private, and the said canal company and the owners of such highway, railroad, or other works can not agree as to the character, method, and terms of such alteration, and there are no laws of the State in which the alteration is proposed applicable thereto, then the same shall be determined by the district court of the United States of the district in which the alteration is proposed, and the district courts of the United States in the district through which the canal herein authorized shall run are hereby clothed with jurisdiction to hear and determine such disputes, under such rules as said courts may prescribe, and to fix the character, method, and terms upon which the alteration shall be made;" so as to make the section read:

SEC. 11. That the said company, in the exercise of its right of eminent domain as granted in section 2 of this act may, at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed, enter upon and take such lands as are necessary and proper for the making, maintaining, and operating of the canals, feeders, and other works of the company hereby authorized, and it shall have the authority, at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed, to alter any and all highways, waterways, railroads, and other works, either public or private, necessary for the making, maintaining, and operating of the canals, feeders, and other works of the company.

Mr. MORGAN. I move to amend the amendment of the committee by inserting in line 7, page 8, after the words "may be constructed," the words "and with their legislative consent;" so that the section down that far will read as follows:

That the said company, in the exercise of its right of eminent domain as granted in section 2 of this act, may, at its own expense and subject to and in conformity with the laws of the States, respectively, through which said canals may be constructed, and with their legislative consent enter upon, etc.

Mr. NELSON. I have no objection to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment of the Committee on Commerce was, in section 12, page 9, line 10, after the word "may," to insert "subject to the rights of the States, respectively, through which said canals shall pass, or any of the municipalities thereof affected thereby, to regulate and control the same;" in line 14, after the word "said," to strike out "canal" and insert "canals, feeders, and other works;" in line 18, after the word "canals," to insert "feeders;" in the same line, before the word "works," to insert "other;" on page 10, line 3, after the word "said," to strike out "canal" and insert "canals, feeders;" and in the same line, after the word "and," to insert "other;" so as to read:

SEC. 12. That the said company in the exercise of its right of eminent domain as granted in section 2 of this act may, subject to the rights of the States, respectively, through which said canals shall pass, or any of the municipalities thereof affected thereby, to regulate and control the same, obtain, take, and use for the construction and operation of the said canals, feeders, and other works from the rivers, lakes, brooks, streams, water courses, ponds, reservoirs, and other sources of water supply sufficient water for the purpose of constructing, maintaining, operating, and using the said canals, feeders, and other works hereby authorized; control and regulate the flood waters of the Allegheny River above Franklin, Pa., and the Beaver, Mahoning, Grand, Ashta-

bula, Shenango, and Little Shenango rivers, and Sandy Creek, and the tributaries of said streams by regulating dams, weirs, reservoirs, and impounding dams, and divert, alter, or impound the waters of any river, lake, brook, stream, and the tributaries of said streams or water courses when the same is necessary to the making, maintaining, and operating of the said canals, feeders, and other works hereby authorized.

Mr. CLAY. I suggest to the Senator from Minnesota that the amendment is not exactly in conformity with the amendment of section 11. This reads, "subject to the rights of the States." I would suggest to the Senator the language "subject to and in conformity with the laws of the States."

Mr. NELSON. I have no objection to the amendment to the amendment.

Mr. CLAY. I move that amendment.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. In line 10, after the words "rights of," it is proposed to insert "and in conformity with the laws of."

The amendment to the amendment was agreed to.

Mr. BACON. I suggest to the Senator from Alabama [Mr. MORGAN] that the same amendment which he offered to section 11 is important in section 12 in order to make it harmonious.

Mr. MORGAN. I had not read the bill that far. I hope the Senator will propose it.

Mr. BACON. I would prefer that the Senator would do it. The same language which was inserted before the word "enter," in line 7, on page 8, would cover it.

Mr. NELSON. It reads, "subject to the rights of the States," and the amendment has put in "and in conformity with the laws of the States."

Mr. BACON. I understand that. "In conformity with the laws of the States" does not cover the distinct consent of the State to the exercise of the right of eminent domain, as is provided in section 11. Let the Secretary read the language of the amendment offered by the Senator from Alabama to the eleventh section.

The SECRETARY. After the words "States, respectively, through which said canals may be constructed" the words were added "and with their legislative consent."

Mr. BACON. If the words "and with their legislative consent" are inserted at this point, it will make it harmonious.

Mr. NELSON. I have no objection, although it is tautology, since the amendment of the junior Senator from Georgia has been adopted.

Mr. BACON. I do not think so. I may be in error, but the other section refers to the method in which it shall be done, and there legislative consent is required.

Mr. KNOX. It seems to me that the amendment proposed by the senior Senator from Alabama protects that entirely. The other section provides the circumstances under which they may condemn in a State, and it is made subject to the legislative consent of the State, and this section is simply with respect to the exercise of that power.

Mr. BACON. If the Senator thinks that limitation applies to the twelfth as well as the eleventh section, I will not insist upon an amendment.

The PRESIDING OFFICER. Does the Senator from Georgia offer an amendment?

Mr. BACON. No. Under the construction placed upon it by the Senator from Pennsylvania, I will not offer the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, on page 10, line 7, after the word "the," to strike out "reasonable requirements of such city, village, or municipality" and insert "normal minimum discharge cross-section area of any such river or stream;" so as to read:

Provided, That nothing herein contained shall authorize said company to impair the navigability of any river or stream, or to diminish at any time the water supply of any city, village, or municipality below the normal minimum discharge cross-section area of any such river or stream, or in any manner to pollute the same.

The amendment was agreed to.

The next amendment was, on page 10, section 12, line 10, after the word "same," to insert:

Provided, That no feeders to supply water shall be connected with or draw water from the Niagara River above the Niagara Falls.

Mr. SPOONER. That amendment was moved by the Senator from Massachusetts [Mr. LODGE], who is absent. He gave notice of a substitute for the proviso, which I agreed to offer for him, and which I send to the desk.

The PRESIDING OFFICER. The substitute will be stated.

The SECRETARY. In lieu of the committee amendment it is proposed to insert the following:

Provided, That no water shall be drawn for the purposes of said canal, its branches or feeders, from above Niagara Falls, unless approved and allowed by the Secretary of War.

Mr. NELSON. I have no objection at all to that amendment. I want to say that the canal company does not expect to draw any water from Lake Erie more than the water that will naturally come up to the first lock.

The summit level is way in the interior, and they can not well draw water from Lake Erie. You can put the Niagara amendment in any form you want. It will not affect the bill one way or the other.

Mr. BACON. I am very glad to hear that from the Senator from Minnesota. Therefore I suggest certain amendments to the amendment, simply with a view of perfecting it. The printed amendment which I have is not that which was read from the desk, and I am not able—

Mr. SPOONER. It provides that—

No water shall be drawn for the purposes of said canal, its branches, or feeders, from above Niagara Falls, unless approved and allowed by the Secretary of War.

That is the only change.

Mr. BACON. I suggest the words "either from Niagara River or its tributaries." I will state that that is substantially the language in the bill we have already passed on this subject.

Mr. SPOONER. I am only offering it for the Senator from Massachusetts.

Mr. BACON. I understand.

Mr. SPOONER. I have no objection to the amendment to the amendment.

Mr. BACON. I move to insert "either from Niagara River or its tributaries."

Mr. TELLER. Mr. President—

Mr. BACON. I have not finished. Then I propose to add at the end of the amendment these words:

Provided, That no greater amount of water shall be diverted from Niagara River or its tributaries above Niagara Falls than shall be specified in any general law of the United States limiting the same.

I do not specify the bill which we have already passed, as it has not yet become a law. Therefore, I can not do it as we usually do. I am compelled to speak of the bill in general terms. Otherwise I would specify the law in the usual way.

Mr. SPOONER. In the bill which has been passed the amount of water that may be drawn from Niagara River was indicated, and the Secretary was authorized to issue permits for various manufacturing establishments. This would conflict with that.

Mr. BACON. This would conflict with that?

Mr. SPOONER. Yes.

Mr. BACON. The bill or this amendment?

Mr. SPOONER. This amendment.

Mr. BACON. Not at all. That refers to a particular bill.

Mr. SPOONER. That bill refers to a certain quantity of water which may be drawn from Niagara River for manufacturing purposes.

Mr. BACON. For any purpose.

Mr. SPOONER. And for other purposes.

Mr. BACON. For any purpose.

Mr. SPOONER. If this canal should draw any water from Niagara River, it would to that extent limit the amount which the bill passed by the Senate authorized to be used by these manufacturing establishments.

Mr. BACON. As I understood the Senator from Minnesota, it is not the design to take any water from the Niagara River.

Mr. SPOONER. Then what is the object of the amendment?

Mr. BACON. To guard it in case others differ with him in that view as to the intention. If the bill which we have passed is to be effective—

Mr. SPOONER. I shall not contest it. The bill will go into conference, and there will be carefully considered. I do not object to the amendment to the amendment, so far as I am concerned.

Mr. TELLER. Mr. President, it is perfectly absurd to put a provision in this bill that water shall not be taken from Niagara River. You might just as well say it should not be taken from the moon, for unless there is some new method of gravitation which will carry the water uphill it can not be done. It can not be done by any method I know of. I dislike to see go into a bill a statement so absurd, and there is no one who is familiar with that section of the country—and I am very familiar with it—does not know that it is not possible to get water out of Niagara into this proposed canal.

The headwaters of the Allegheny River, if this canal strikes the Ohio where the bill says it shall, which is in Trumbull

County, at Niles, a county immediately south of Ashtabula County, which is on the lake, it will be 50 miles from the lake where it strikes Niles—40 or 50 miles. It will be then a hundred miles, at least 75 miles, from Niagara River. Water could be put into the canal from Allegheny River. The Allegheny rises in western New York. Some of the branches rise in Chautauqua and some in Cattaraugus County. There is a high divide between that and the water which runs into Niagara River, a divide that never could be cut across with a canal, and there is not water enough on top of the divide to put in a canal or to make a feeder.

I speak with knowledge of this thing. I myself as a young man taught school in the neighborhood of the headwaters of the Allegheny River. I have been down the Allegheny River from its head to Pittsburgh, and I have been to Chautauqua Lake. I know that country, and to say this would be just as absurd as to say that you shall not carry water uphill for the benefit of this canal.

We owe it to the people, when we enact a law, that at least on the face of it it should have the appearance of knowledge on our part of what we are doing, and I think a committee which would allow such a proposition to go into the bill could not have given very much attention to the geography of the country concerning which this inhibition is to be inserted.

Mr. President, I do not suppose it will make much difference. People in that country will look it over and probably say that the Senate is not possessed of very much knowledge of geography, and they will wonder, certainly they will have a degree of surprise and curiosity, why there should be so much interest in preventing the water in Niagara River from being utilized in the proposed canal. They are going to utilize the water in the lake. Nobody seems to make any objection to that. All the water in Lake Erie that is not evaporated goes out through the Niagara River. You can not use any water in this canal, as the Senator from Pennsylvania says, from the lake. There is a natural ridge all along from the Niagara River clear up to Cleveland. I doubt very much whether there is any place where you could cut a canal a half a mile from the lake where you could fill it with water. People who have been along that railroad which passes up the lake shore will, I think, recognize what I say to be the fact. I know the country whereof I speak.

While I am not very enthusiastic about this canal, and have some doubt whether it will every be built—I doubt whether it will be very valuable when it is built—I think it will be more valuable, perhaps, to those who build it and those who operate it in the time to come. However, that has nothing to do with it. I dislike to see such a provision inserted in the bill as if there was some sinister purpose in building this canal to get water out of that river. As I say, if there are any reasons why it should not be taken out of Niagara, the same reasons would operate as to Lake Erie, as Niagara is the outlet.

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Georgia to the substitute.

The amendments to the amendment were agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Commerce was, in section 13, page 10, line 21, after the word "said," to strike out "canal" and insert "canals."

The amendment was agreed to.

The next amendment was, in section 14, page 11, line 6, after the word "buildings," to insert "feeders;" so as to read:

Sec. 14. That the said company may take, use, occupy, and hold, but not alienate, so much of the public beach or beach road, or lands covered with the waters of the rivers, lakes, brooks, streams, water courses, reservoirs, or ponds, on or at which the said canals may start from, traverse, cross, or terminate as may be necessary for the wharves, docks, piers, buildings, feeders, or other works of the company.

The amendment was agreed to.

The next amendment was, in section 15, page 11, line 13, after the word "canals," to insert "feeders;" in line 21, after the word "canals," to insert "feeders;" and in line 22, before the word "works," to insert "other;" so as to make the section read:

Sec. 15. That the company shall prepare and file with the Secretary of War, for his approval, the plans, locations, dimensions, and all necessary particulars of its canals, feeders, and other works between the Ohio River and Lake Erie, and before such approval the construction thereof shall not be begun; and should any change in said plans be proposed during the progress of construction, such change shall be submitted to the Secretary of War and be by him approved before such change shall be made. Upon notice of the approval of the Secretary of War, the company may forthwith begin the construction of its canals, feeders, and other works, or any part thereof, according to this act.

The amendment was agreed to.

The next amendment was, in section 17, page 12, line 3, after the word "that," to insert "the said canals shall be open to the use and navigation of all suitable and proper vessels or other water craft, by whomsoever owned or operated, upon fair and equal terms, conditions, rates, tolls, and charges; and;" in line 9, after the word "canals," to insert "feeders;" in line 10, before the word "works," to insert "other;" in the same line, after the word "same," to strike out "such reasonable" and insert "just, reasonable, and fairly remunerative;" in line 12, after the word "charges," to strike out "or" and insert "rates, and;" in the same line, after the word "tolls," to strike out "as may by its by-laws be determined;" in line 13, after the word "charges," to strike out "or" and insert "rates, and;" in the same line; after the word "shall," to strike out "under similar circumstances, be charged equally" and insert "be equal;" in line 17, after the word "or," to strike out "advance" and insert "discrimination;" in line 18, before the word "tolls," to strike out "or" and insert "rates, and;" in line 19, after the word "charges," to strike out "or" and insert "rates, and;" in line 24, after the word "charges," to strike out "or" and insert "rates, and;" in line 25, after the word "charges," to strike out "or" and insert "rates, and;" on page 13, line 5, after the word "less," to strike out "then the;" in line 6, after the word "notice," to insert "than;" and in line 9, after the word "conditions," to strike out "And provided further, That all charges or tolls upon commerce within the several States through which said canal as located shall be governed by and subject to the laws of the respective States in which said commerce shall be carried;" so as to make the section read:

SEC. 17. That the said canals shall be open to the use and navigation of all suitable and proper vessels or other water craft, by whomsoever owned or operated, upon fair and equal terms, conditions, rates, tolls, and charges; and the said company may demand, take, and recover for its own proper use, for all persons and things of whatsoever description transported upon the said canals, feeders, and other works, or in vessels and craft using the same, just, reasonable, and fairly remunerative charges, rates, and tolls; but all such charges, rates, and tolls shall be equal to all persons, vessels, and goods under certain classifications to be established by the company; and no rebate, reduction, drawback, or discrimination of any sort on such charges, rates, and tolls shall ever be made directly or indirectly. And the said charges, rates, and tolls for the ensuing year shall be fixed, published, and posted on or in every place where they are to be collected on or before the 15th day of February of each year, and shall not be changed except after thirty days' public notice, which notice shall plainly state the changes proposed to be made in the charges, rates, and tolls then in force and the time when the changed charges, rates, and tolls will go into effect; and the proposed changes shall be shown by printing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: *Provided*, That the Interstate Commerce Commission may, in its discretion and for good cause shown, allow changes upon less notice than herein specified or modify the foregoing requirements in respect to publishing and posting of such schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

Mr. NELSON. On page 17, line 11, in order to harmonize it with the rate bill, I move to strike out the words "and fairly remunerative" and to insert the word "and" between the words "just" and "reasonable."

Mr. FORAKER. I would suggest to the Senator that I read in the paper this morning that the conferees had agreed to strike out the words "fairly remunerative" from the rate bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, in section 18, line 13, after the word "canals," insert "feeders;" so as to read:

Sec. 18. That the canals, feeders, and other works hereby authorized shall be lawful military and post routes, etc.

The amendment was agreed to.

The next amendment was, in section 19, page 13, line 21, before the word "canals," to strike out "canal or some of the;" in line 23, after the word "company," to insert "shall;" in line 24, before the word "years," to strike out "six" and insert "three;" in line 25, before the word "years," to strike out "fifteen" and insert "ten;" so as to make the section read:

Sec. 19. That if the construction of the canals hereby authorized shall not have been commenced, and a sum equal to 10 per cent of the capital stock of the company shall not have been expended thereon within three years after the passage of this act, or if the main canal shall not have been finished within ten years after the passage of this act, the franchise herein granted shall cease and be null and void; but in calculating the time aforesaid delays caused by the acts of God or the public enemy shall not be included.

The amendment was agreed to.

The next amendment was, on page 14, after line 4, to strike out section 20, in the following words:

Sec. 20. That the Government of the United States may, at any time after fifty years from the opening of the canals to navigation, upon notice to said company of not less than one year, assume possession, con-

trol, and ownership of the said canals and their appurtenances and of all the rights and privileges thereunto belonging, full title to which shall, upon such assumption, be fully vested in the United States, and the United States shall thereupon pay to the said company the value of the same, to be ascertained and fixed by three arbitrators, or a majority of them, one of whom shall be appointed by the President of the United States, another by said Lake Erie and Ohio River Ship Canal Company, and the third by the arbitrators thus selected, and said arbitrators, in fixing the value of the canals and work so acquired by the United States, shall not consider or allow any value for the franchise conferred by this act or for earnings or good will.

Mr. SPOONER. I should like to ask the Senator in charge of the bill why this section is to be stricken out?

Mr. NELSON. It was the sense of the subcommittee, and that suggestion was adopted by the full committee, that there might be an implication in that section that some day or other the Government would take this canal. Therefore we left it out. It might seem as though it was committing the Government to the idea of acquiring the canal some time in the future, and hence we left it out. If it is left out, it will be a matter in conference between the two Houses.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 14, line 21, to change the number of the section from "21" to "20;" and in line 24, after the word "said," to strike out "canal" and insert "canals, feeders;" so as to make the section read:

SEC. 20. That any person, association, or corporation, municipal or otherwise, which shall suffer any damage or loss to person or property by reason of the construction, operation, or maintenance of the said canals, feeders, or any of the works thereof, etc.

The amendment was agreed to.

The next amendment was, on page 15, line 7, to change the number of the section from "22" to "21."

The amendment was agreed to.

The next amendment was, on page 15, line 11, to change the number of the section from "23" to "22."

The amendment was agreed to.

The next amendment was, on page 15, line 15, to change the number of the section from "24" to "23."

The amendment was agreed to.

The reading of the bill was concluded.

Mr. LA FOLLETTE. I offer the amendment I send to the desk.

The PRESIDING OFFICER. The Senator from Wisconsin offers an amendment, which will be stated.

The SECRETARY. At the end of section 3, on page 4, insert the following additional proviso:

Provided further, That the Lake Erie and Ohio River Ship Canal Company, its successors and assigns, shall issue only such amounts of stocks and bonds, coupon notes, and other evidences of indebtedness payable at periods of more than twelve months after the date thereof as the Interstate Commerce Commission may from time to time determine is reasonably necessary for the purpose for which such issue of stock or bonds has been authorized. And the Interstate Commerce Commission is hereby authorized and empowered and it shall be its duty to determine, upon application, what issues of stocks, bonds, coupon notes, or other evidences of indebtedness may be reasonably necessary to pay the cost of construction, equipment, maintenance, and operation of said canals and works. Said Commission shall render a decision, upon an application for such issue, within thirty days after final hearing thereon, which decision shall be in writing, shall assign the reasons therefor, and shall, if authorizing such issue, specify the respective amounts of stocks or bonds or of coupon notes or of other evidences of indebtedness as aforesaid which are authorized to be issued for the respective purposes to which the proceeds thereof are to be applied. Such decision shall be filed in the office of the Commission, and a certified copy of such decision shall be delivered to the said canal company, which shall cause the same to be entered upon its records before any stocks, bonds, coupon notes, or other evidences of indebtedness thereby authorized are issued. Every certificate of stock, every bond, and other evidence of indebtedness of such canal company operating as a lien upon the property of such company which shall be made, issued, or sold without compliance with this act shall be void. Any officer or director of said canal company who shall knowingly make any false statement or shall withhold from the Interstate Commerce Commission any information requested by such Commission to procure the approval of said Commission to any issue of stocks, or bonds, or coupon notes, or other evidences of indebtedness shall be deemed guilty of a misdemeanor, and upon conviction thereof in the United States district court of the district in which such offense is committed shall be punished by imprisonment for a term of not less than two nor more than ten years, and shall likewise be liable to any creditor of such company for the full amount of damages sustained by such wrongful act.

Mr. LA FOLLETTE. Mr. President, it is not my purpose at this late hour of the session to tax the patience of the Senate with any extended remarks upon the proposed amendment. Its purpose is plain.

The State of Massachusetts and the State of Texas provide by statute that no public-service corporation shall issue stocks and bonds except that it first submit to a designated State authority satisfactory evidence that there is actual value back of every dollar of the proposed issue of stocks and bonds. This amendment is drawn upon those statutes. I do not believe that it can be objected to in form. If objection be made to it at

all it must be upon principle, and I can conceive of no valid objection which can be made to the amendment upon any principle.

The incorporators who are asking for this charter by the terms of the bill propose to issue \$400,000 of stock and \$400,000 of bonds for every mile of the canal from Lake Erie to the Ohio River. Once issued, the coal and iron and grain shipped through the canal will be charged tolls to pay interest on all the bonds and dividends on all the stock though it may not have cost half of \$800,000 per mile to build, maintain, and operate the canal. This is the vice of allowing public-service corporations to issue stocks and bonds without any Government supervision, requiring the corporation to make satisfactory proof that every dollar of stocks and bonds represents actual bona fide investment.

If this canal will cost \$800,000 per mile to build, it is an easy matter for those who are asking this charter at the hands of the Federal Government to make that plain to some authority of the Federal Government.

The transportation of this country is upon a false basis. The steam railroads, the street cars and interurban companies, the sleeping-car companies, the express companies, are—all of them, as is well known—overcapitalized and grossly inflated. The people are charged transportation rates high enough to pay dividends on all stock and interest on all bonds, notwithstanding the fact that more than 50 per cent of such stocks and bonds represent no investment whatever.

The difficulty in squeezing the water out after the stocks and bonds have been issued is at once manifest. You are at once encountered with the plea—a false one, as I contend—that the stocks and bonds have become the property of innocent purchasers.

But here we are at the outset of this proposed public enterprise, the building of this canal, and before the stocks and bonds are issued, before they have been sold, before there is any opportunity to put forth the claim that the stocks and bonds are in the hands of people who gave full face value for them, the Federal Government should be clothed with authority to make certain that these incorporators have invested in this canal the money for the stock and bonds issued. I believe that the Interstate Commerce Commission is the body to invest with authority to protect the public against overcapitalization.

I am not prepared to say that this canal will not cost \$800,000 per mile to build, but with its several branches, aggregating over 225 miles, an issue of over \$180,000,000 may be made by the corporation, no matter what the cost of the canal. This would seem excessive.

It was stated in the debate upon the isthmian canal that it would only cost \$180,000,000 to build that great waterway for ocean vessels if we construct the lock and dam type. That canal is to be built 200 feet wide and with a depth of 40 feet. The depth proposed in the pending bill for this canal is, I think, only 12½ feet.

Mr. President, if the purposes of those who are back of this enterprise are clear and fair, and there is not an intention to have the capital of this canal company watered and inflated, then this amendment will not be objected to by them.

It is proposed, sir, that the Interstate Commerce Commission shall regulate the tolls and charges the commerce of the country must pay as it passes through this canal, and that they shall have authority to so limit those tolls and charges that they shall be reasonable. If they are to be given that authority, then you must make certain that there shall not be extravagant issue of stock and bonds upon which dividends and interest will have to be paid in excessive tolls by the public on its commerce.

Mr. NELSON. Mr. President, I am sincerely and heartily in favor of the construction of this canal. I have been unwilling, however, to take up the time of the Senate needlessly in discussing what I consider the merits of it. My own State, bordering on Lake Superior, at the great city of Duluth, is vitally interested in this canal, and I should like to see the canal built as soon as possible.

I have no idea that the General Government will undertake it. If it is not undertaken by a corporation of this kind it is not likely to be built at all.

Now, to ingraft such an amendment upon the bill would hamper and distress the company and prevent them from carrying on their operations. The effect of the amendment is that the corporation could not organize, even, before the men interested in it would have to present the plans and specifications of the canal to the Interstate Commerce Commission, and show in advance what it would cost in order to lay the foundation for issuing the stock.

Now, under section 6 of the bill they are authorized to meet and organize as soon as \$5,000 of stock for every mile shall have been subscribed. The effect of this amendment would

prevent the corporations from being organized at all until they had prepared and submitted an estimate of what the probable cost of the canal would be, with all its appurtenances and appliances, a thing in the very nature of the case that they could not wholly do in advance.

Then, more than that, the amendment goes further and makes all the stock issued by them, unless in conformity with the provisions of the other part of the amendment, absolutely void in the hands of innocent purchasers.

This company, in order to build the canal, have got to raise money; they have got to raise it in the way money is raised for other enterprises in this country; and if you impose any such restriction as is attempted in the amendment you practically defeat the scheme.

Therefore I trust everyone who is in favor of the immediate construction of this canal will help to vote down the amendment.

Mr. LA FOLLETTE. Mr. President, the Senator is entirely mistaken when he says that the amendment which I propose would interfere with the organization of this company and the subscription of its capital stock. It can embarrass no legitimate enterprise to show that it is prepared to make a valid bona fide investment.

Under a similar statute railroad companies are organized and roads constructed in the State of Texas; railroad companies are organized and roads built in Massachusetts. It imposes no restriction whatever upon the organization of the corporation and the subscription of its stock. It is a just provision, both to the corporation and to the people. Without it there is no protection against overcapitalization.

It was suggested by the Senator from Pennsylvania [Mr. Knox] earlier in this discussion that the bill sufficiently protected the public and the purchasers of stocks and bonds in the proviso contained in lines 19, 20, and 21, page 3, section 3, which is as follows:

Provided further, That in no event shall the stock issued and debt created be more than may be necessary to construct, equip, maintain, and operate said canals and works pursuant to and in compliance with all the provisions of this act.

That is the usual provision found in such bills, and imposes no restraint whatever. There is no penalty attached to the issue of stocks and bonds in excess of the amount that is necessary. It is very easy for the organizers and promoters of this scheme to fix a fictitious value upon the franchise and upon the prospective earnings of the proposed canal, and issue stocks and bonds that are nominally within the terms of those lines, and yet which are in excess, and grossly and criminally in excess, of the fair value of the property.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. PATTERSON. Mr. President, I do not want to be censured, either in words or silently, for detaining the Senate at this late hour, and yet I wish to occupy enough time to give some pretty well defined views that I entertain about this bill. If the Senator in charge of the bill would be willing to let it go over until to-morrow, I should be very glad to have that course adopted.

Mr. PENROSE rose.

Mr. NELSON. I suggest to the Senator from Pennsylvania to make a request for unanimous consent that the consideration of the bill shall be resumed to-morrow morning.

Mr. PENROSE. I ask unanimous consent, then, in deference to the suggestion of the Senator from Colorado, that the bill may be taken up for consideration immediately after the routine morning business to-morrow.

The PRESIDING OFFICER. The Senator from Pennsylvania asks unanimous consent that the pending bill, H. R. 14396, be taken up immediately after the routine morning business to-morrow. Is there objection? The Chair hears none. It is so ordered.

Mr. PENROSE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened, and (at 6 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Saturday, June 16, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate June 15, 1906.

PROMOTIONS IN THE CONSULAR SERVICE.

William Haywood, of the District of Columbia, former secretary of legation and consul-general at Honolulu, to be consul-

general of the United States of class 4 at Seoul, Korea, vice Gordon Paddock, resigned.

Henry W. Diederich, of the District of Columbia, now consul at Bremen, for promotion to be consul-general of the United States of class 4 at Antwerp, Belgium, vice Church Howe, nominated for promotion, to be consul-general of class 3 at Montreal.

George Horton, of Illinois, now consul at that place, to be consul-general of the United States of class 7 at Athens, Greece, to fill an original vacancy.

Church Howe, of Nebraska, now consul-general at Antwerp, for promotion to be consul-general of the United States of class 3 at Montreal, Canada, vice Alanson W. Edwards, resigned, to take effect June 30, 1906.

Frank R. Mowrer, of Ohio, now consul at Ghent, for promotion, to be consul-general of the United States of class 6 at Adis Ababa, Abyssinia, to fill an original vacancy.

Edward H. Ozmun, of Minnesota, now consul at Stuttgart, for promotion to be consul-general of the United States of class 3 at Constantinople, Turkey, vice Charles M. Dickinson, appointed consul-general at large.

Gabriel Bie Ravndal, of South Dakota, now consul at Dawson, to be consul-general of the United States of class 5 at Beirut, Turkey, vice Leo Allen Bergholz, nominated for promotion to be consul-general of class 4 at Canton.

Willard D. Straight, of New York, now vice-consul-general at Seoul, to be consul-general of the United States of class 5 at Mukden, China, vice Fleming D. Cheshire, appointed consul-general at large.

Alban G. Snyder, of West Virginia, now secretary of the legation and consul-general at Bogota, for promotion to be consul-general of the United States of class 5 at Buenos Ayres, Argentine Republic, vice George C. Cole, nominated for promotion to be consul of class 3 at Dawson.

Samuel M. Taylor, of Ohio, now consul at Glasgow, to be consul-general of the United States of class 5 at Callao, Peru, vice Elmer E. E. McJimsey, declined.

Jay White, of Michigan, now consul at Hanover, for promotion to be consul-general of the United States of class 6 at Bogota, Colombia, vice Alban G. Snyder, nominated for promotion to be consul-general of class 5 at Buenos Ayres.

Joseph M. Authier, of Rhode Island, now commercial agent at that place, to be consul of the United States of class 9 at St. Hyacinthe, Quebec, Canada.

Julian H. Arnold, of California, a student interpreter to China, to be consul of the United States of class 7 at Tamsui, Formosa, vice Fred D. Fisher, nominated for promotion to be consul of class 5 at Harbin.

William P. Atwell, of the District of Columbia, now consul at Roubaix, for promotion to be consul of the United States of class 7 at Ghent, Belgium, vice Frank R. Mowrer, nominated for promotion to be consul-general of class 6 at Adis Ababa, Abyssinia.

William Harrison Bradley, of Illinois, now consul-general at that place, to be consul of the United States of class 2 at Manchester, England, to fill an original vacancy.

James S. Benedict, of New York, now commercial agent at that place, to be consul of the United States of class 9 at Campbellton, New Brunswick, Canada.

Gustave Beutelspacher, of Ohio, now commercial agent at that place, to be consul of the United States of class 9 at Moncton, New Brunswick, Canada.

Robert S. S. Bergh, of North Dakota, now consul at Gothenburg, for promotion to be consul of the United States of class 7 at Düsseldorf, Germany, vice Peter Lieber, recalled.

Albert W. Brickwood, jr., of Arizona, now vice and deputy consul at that place, to be consul of the United States of class 8 at Nogales, Mexico, vice Albert R. Morawetz, promoted to be consul of class 5 at Bahia.

Philip Carroll, of New York, now commercial agent at Greenville, for promotion to be consul of the United States of class 9 at Manzanillo, Mexico, to fill an original vacancy.

Edwin S. Cunningham, of Tennessee, now consul at Bergen, for promotion to be consul of the United States of class 6 at Durban, Natal, to fill an original vacancy.

George C. Cole, of West Virginia, now consul-general at Buenos Ayres, for promotion to be consul of the United States of class 3 at Dawson, Yukon Territory, Canada, vice Gabriel Bie Ravndal, nominated to be consul-general of class 5 at Beirut.

Caspar S. Crowninshield, of the District of Columbia, now commercial agent at that place, to be consul of the United States of class 9 at Castellamare di Stabia, Italy.

Henry S. Culver, of Ohio, now consul at London, Ontario, Canada, for promotion to be consul of the United States of class

8 at Cork, Ireland, vice Edwin N. Gunsaulus, nominated for promotion to be consul of class 6 at Rimouski.

Chapman Coleman, of Kentucky, former secretary of legation at Berlin, to be consul of the United States of class 8 at Roubaix, France, vice William P. Atwell, nominated for promotion to be consul of class 7 at Ghent.

George A. Chamberlain, of New Jersey, late vice and deputy consul-general at Rio de Janeiro, to be consul of the United States of class 5 at Pernambuco, Brazil, vice William L. Sewell, deceased.

E. Haldeman Dennison, of Ohio, now commercial agent at Rimouski, for promotion to be consul of the United States of class 5 at Bombay, India, vice William T. Fee, nominated for promotion to be consul of class 3 at Bremen.

William F. Doty, of New Jersey, now consul at Tahiti, for promotion to be consul of the United States of class 7 at Tabriz, Persia, to fill an original vacancy.

William T. Fee, of Ohio, now consul at Bombay, for promotion to be consul of the United States of class 3 at Bremen, Germany, vice Henry W. Diederich, nominated for promotion to be consul-general of class 4 at Antwerp.

Alfred J. Fleming, of Missouri, now commercial agent at Stanbridge, for promotion to be consul of the United States of class 8 at Aden, Arabia, vice William W. Masterson, nominated to be consul of class 8 at Batum.

Charles M. Freeman, of New Hampshire, now commercial agent at that place, to be consul of the United States of class 9 at St. Pierre, St. Pierre Island.

Fred D. Fisher, of Oregon, now consul at Tamsul, for promotion to be consul of the United States of class 5 at Harbin, Manchuria, to fill an original vacancy.

Roger S. Greene, of Massachusetts, now commercial agent at that place, to be consul of the United States of class 6 at Vladivostok, Siberia.

Wilbur T. Gracey, of Massachusetts, now vice and deputy consul-general at Hongkong, to be consul of the United States of class 5 at Tsingtau, China, to fill an original vacancy.

Edwin N. Gunsaulus, of Ohio, now consul at Cork, for promotion to be consul of the United States of class 6 at Rimouski, Quebec, Canada, vice E. Haldeman Dennison, nominated for promotion to be consul of class 5 at Bombay.

Joseph E. Haven, of Illinois, now commercial agent at that place, to be consul of the United States of class 9 at St. Christopher, West Indies.

John E. Hamilton, of Kentucky, now commercial agent at that place, to be consul of the United States of class 9 at Cornwall, Ontario, Canada.

George Helmrod, of Nebraska, now consul-general at that place, to be consul of the United States of class 6 at Apia, Samoa, to fill an original vacancy.

Perley C. Heald, of Michigan, now commercial agent at Wallaceburg, for promotion to be consul of the United States of class 9 at Saigon, Cochinchina, to fill an original vacancy.

E. Scott Hotchkiss, of Wisconsin, now consul at Brockville, for promotion to be consul of the United States of class 9 at Hobart, Tasmania, to fill an original vacancy.

Alexander Heingartner, of Ohio, now consul at Guelph, for promotion to be consul of the United States of class 9 at Riga, Russia, to fill an original vacancy.

George N. Ifft, of Idaho, now consul at Chatham, for promotion to be consul of the United States of class 7 at Annaberg, Germany, vice John F. Winter, deceased.

John Edward Jones, of the District of Columbia, now consul-general at that place, to be consul of the United States of class 6 at Dalny, Manchuria, to fill an original vacancy.

John F. Jewell, of Illinois, now consul at Martinique, for promotion to be consul of the United States of class 7 at St. Michaels, Azores, vice George H. Pickerell, nominated for promotion to be consul of class 5 at Para.

George B. Killmaster, of Michigan, now commercial agent at that place, to be consul of the United States of class 9 at Port Rowan, Ontario, Canada.

James A. Le Roy, of Michigan, now consul at Durango, for promotion to be consul of the United States of class 8 at Madrid, Spain, to fill an original vacancy.

William C. Magelsson, of Minnesota, now vice and deputy consul-general at Beirut, to be consul of the United States of class 9 at Bagdad, Turkey, to fill an original vacancy.

Robert E. Mansfield, of Indiana, now consul at Valparaiso, to be consul of the United States of class 6 at Lucerne, Switzerland, vice Henry H. Morgan, nominated for promotion to be consul of class 5 at Stuttgart.

William W. Masterson, of Kentucky, now consul at Aden, to be consul of the United States of class 8 at Batum, Russia, to fill an original vacancy.

Chester W. Martin, of Michigan, now consul at Amherstburg, for promotion to be consul of the United States of class 8 at Martinique, West Indies, vice John F. Jewell, nominated for promotion to be consul of class 7 at St. Michaels.

Maxwell K. Moorhead, of Pennsylvania, now consul at St. Thomas, Ontario, to be consul of the United States of class 9 at Belgrade, Servia, to fill an original vacancy.

Henry H. Morgan, of Louisiana, now consul at Lucerne, for promotion to be consul of the United States of class 5 at Stuttgart, Wurttemberg, vice Edward H. Ozmun, nominated for promotion to be consul-general of class 3 at Constantinople.

Milton M. Price, of South Dakota, now commercial agent at that place, to be consul of the United States of class 8 at Jerez de la Frontera, Spain.

George W. Shotts, of Michigan, now commercial agent at that place, to be consul of the United States of class 8 at Sault Ste. Marie, Ontario, Canada.

Nicholas R. Snyder, of Pennsylvania, now commercial agent at that place, to be consul of the United States of class 7 at Port Antonio, Jamaica.

John H. Shirley, of Illinois, now commercial agent at Goderich, for promotion to be consul of the United States of class 9 at Suva, Fiji Islands, to fill an original vacancy.

Augustus G. Seyfert, of Pennsylvania, now consul at Stratford, for promotion to be consul of the United States of class 9 at Durango, Mexico, vice James A. Le Roy, nominated for promotion to be consul of class 8 at Madrid.

Nicholas C. Schlemmer, of Texas, now vice-consul at Mannheim, to be consul of the United States of class 8 at Bergen, Norway, vice Edwin S. Cunningham, nominated for promotion to be consul of class 6 at Durban.

John S. Twells, of Pennsylvania, now commercial agent at that place, to be consul of the United States of class 7 at Carlsbad, Austria.

Henry B. Wardman, of Pennsylvania, now commercial agent at that place, to be consul of the United States of class 9 at Aguascalientes, Mexico.

Alfred A. Winslow, of Indiana, now consul-general at Guatemala, for promotion to be consul of the United States of class 4 at Valparaiso, Chile, vice Robert E. Mansfield, nominated to be consul of class 6 at Lucerne.

PROMOTION IN THE REVENUE-CUTTER SERVICE.

Cadet James Louis Ahern to be a third lieutenant in the Revenue-Cutter Service of the United States.

PROMOTIONS IN THE NAVY.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 7th day of June, 1906, upon the completion of three years' service:

Ernest J. King.
William Norris.
John P. Jackson.
Arthur P. Fairfield.
John H. Furse.
Charles T. Hutchins, jr.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 7th day of June, 1906, to fill vacancies existing in that grade on that date:

Ernest J. King.
William Norris.
John P. Jackson.
Arthur P. Fairfield.
John H. Furse.
Charles T. Hutchins, jr.

Midshipman Omenzo C. F. Dodge to be an ensign in the Navy from the 2d day of February, 1906, to fill a vacancy existing in that grade on that date.

RECEIVER OF PUBLIC MONEYS.

Charles B. Timberlake, of Colorado, to be receiver of public moneys at Sterling, Colo., his term having expired December 18, 1905. (Reappointment.)

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 15, 1906.

PROMOTIONS IN THE NAVY.

Commander Greenlief A. Merriam to be a captain in the Navy from the 6th day of June, 1906.

Commander John B. Milton to be a captain in the Navy from the 6th day of June, 1906.

Commander Aaron Ward, an additional number in grade, to be a captain in the Navy from the 6th day of June, 1906.

UNITED STATES ATTORNEY.

William M. Mellette, of Indian Territory, to be United States attorney for the western district of Indian Territory.

POSTMASTERS.

KANSAS.

John W. Skinner to be postmaster at Winfield, in the county of Cowley and State of Kansas.

MISSOURI.

Melvin C. James to be postmaster at Higginsville, in the county of Lafayette and State of Missouri.

NEW YORK.

John M. Hamilton to be postmaster at Batavia, in the county of Genesee and State of New York.

George T. Salmon to be postmaster at Lima, in the county of Livingston and State of New York.

OHIO.

William H. Cullen to be postmaster at Paulding, in the county of Paulding and State of Ohio.

James H. Fluhart to be postmaster at Continental, in the county of Putnam and State of Ohio.

Charles A. Moodey to be postmaster at Painesville, in the county of Lake and State of Ohio.

Richard L. Moore to be postmaster at Cuyahoga Falls, in the county of Summit and State of Ohio.

Charles W. Searls to be postmaster at Madison, in the county of Lake and State of Ohio.

PENNSYLVANIA.

Franklin Wisener to be postmaster at Beaver Falls, in the county of Beaver and State of Pennsylvania.

TENNESSEE.

M. Haworth to be postmaster at Maryville, in the county of Blount and State of Tennessee.

HOUSE OF REPRESENTATIVES.

FRIDAY, June 15, 1906.

The House met at 11 o'clock a. m., and was called to order by Mr. ALEXANDER McDOWELL, its Clerk, who laid before the House the following letter:

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,
Washington, D. C., June 15, 1906.

I hereby designate Hon. JOHN DALZELL, of Pennsylvania, to act as Speaker pro tempore.

J. G. CANNON, Speaker.

Mr. DALZELL accordingly assumed the chair as Speaker pro tempore.

The Journal of yesterday's proceedings was read and approved.

BUSINESS OF COMMITTEE ON WAR CLAIMS.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that to-morrow be substituted for war claims instead of to-day.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that to-morrow be substituted for to-day for the consideration of business of the Committee on War Claims. Is there objection? [After a pause.] The Chair hears none.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. TAWNEY. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the sundry civil appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. WATSON in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the sundry civil appropriation bill. The Chair desires to state that last evening when the committee rose there was an amendment offered by the gentleman from Georgia pending. The Chair stated that the amendment would be pending at this sitting of the committee this morning.

Mr. TAWNEY. Let the amendment be read.

The CHAIRMAN. It was simply a pro forma amendment, to strike out the last word; but the Chair announced that that would be considered as pending this morning. The gentleman from Georgia is not present; it is not the fault of the committee, and the Clerk will read.

The Clerk read as follows:

Opinions of the Attorney-General: To enable the Attorney-General to employ, at his discretion, and irrespective of the provisions of section 1765 of the Revised Statutes, such competent person or persons as will, in his judgment, best perform the service, to edit and prepare

for publication and superintend the printing of volume 25 of the Opinions of the Attorney-General, \$500; the printing of said volume to be done in accordance with the provisions of section 383 of the Revised Statutes.

Mr. LITTLEFIELD. I offer the following new paragraph as an amendment to the bill.

The Clerk read as follows:

To systematize the preparation of law indexes, etc., and to provide trained law clerks therefor: To enable the Librarian of Congress to direct the law librarian to prepare a new index to the Statutes at Large, in accordance with a plan previously approved by the Judiciary Committees of both Houses of Congress, and to prepare such other indexes, digests, and compilations of law as may be required for Congress and other official use, \$5,840, to pay for five additional assistants in the law library, one at \$1,800, one at \$1,200, one at \$900, and two at \$720 each, and for the law librarian, \$500, the said sum to be paid to the law librarian notwithstanding section 1765 of the Revised Statutes.

Mr. LITTLEFIELD. I do not understand that there is any objection to the adoption of the amendment, and that being the case, I shall not take time unless an explanation is desired.

Mr. NORRIS. I would like to ask the gentleman, does this amendment interfere in any way with the provision that has been adopted, as I understand in a preceding Congress, providing for codification of the laws?

Mr. LITTLEFIELD. No; this amendment, or this provision, will provide for a scientific indexing of legislation up to date. It proposes to authorize clerks for that purpose. I have the data here in detail, I would say to the gentleman. It does not interfere with the code or the consolidation or revision. That legislation, as I remember it, simply provides for a revision. When revised, the men revising will probably take care of the index.

Mr. NORRIS. Is it the intention that this amendment the gentleman offers shall not go into effect until the revision takes place, so that they will index the revision rather than the law as it stands now?

Mr. LITTLEFIELD. This will go into effect at once. We have to-day thirty-three volumes of the Statutes at Large. There is no scientific index of them. No matter what the revision may be, the gentleman full well understands it will always be necessary to consult these thirty-three volumes to get an intelligent idea of what the law is. All we have to-day in connection with these thirty-three volumes is a separate index for each volume, which is very inartistic and unscientific. This would enable these three clerks and two stenographers to begin work and make a scientific index of these volumes, for instance, to bring it up to date. There was an effort made to produce an index of all the laws and have it published as what is called a "consolidated index." As a matter of fact, all there is of that consolidated index is simply the work of taking the separate indexes of these thirty-three volumes and with scissors and paste putting them together. While it is absolutely unscientific, it is better than the existing thirty-three indexes only, because it puts them all in one book. It does not give any idea of what legislation has been repealed and what legislation may be inconsistent—in fact, practically it is of no value so far as giving an intelligent understanding of what the law is. Now, it turns out, on investigation, that there has been going on, in connection with a number of the bureaus of the Government where they have legal work, a large amount of indexing on their own account; so that there has been indexing going on in various Departments, and under this provision we will have these consolidated and no duplication of the work. Let me give an illustration—

Mr. NORRIS. If the gentleman will permit, I would like to suggest—

Mr. LITTLEFIELD (continuing). Last summer, when the Landis Commission wanted all the laws relating to the work of the Public Printer, a full index had to be prepared by the young woman who catalogues the documents under the superintendent of documents, and it was a very unscientific and unsatisfactory work, as well as expensive. Now, the purpose is to have all the indexes of the legislation and the works of the various Departments combined down here in the law library, where it can be reached, where the work can be done accurately, and where we can get rid of the duplication of the work of these various Departments.

Mr. NORRIS. Mr. Chairman, I want to suggest to the gentleman from Maine that I heartily agree with him that we ought to have some method of indexing by which we can find the laws passed by Congress, but it occurred to me that we had provided in some way by a resolution or by a law passed here that one of the committees of the House should revise the statutes that they have already reported, as far as the criminal code is concerned. If that is true—

Mr. LITTLEFIELD. It is not true. The gentleman from Massachusetts [Mr. HOAR] will explain.